

STATE OF GEORGIA DEPARTMENT OF BANKING AND FINANCE



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*NATHAN DEAL
GOVERNOR*

*KEVIN HAGLER
COMMISSIONER*

***SPECIAL EDITION
IMPORTANT NOTICE
PROPOSED RULEMAKING***

May 17, 2016

**NOTICE OF PROPOSED RULEMAKING
AND
OPPORTUNITY TO COMMENT**

**PROPOSED ENACTMENT OF RULES AND REGULATIONS
BY
DEPARTMENT OF BANKING AND FINANCE
STATE OF GEORGIA**

To all interested persons:

Pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 et seq., and by the authority of O.C.G.A. §§ 7-1-61, 7-1-1012, and other cited statutes, the Department of Banking and Finance hereby gives notice of its intent to adopt new rules.

A synopsis and purpose precedes the proposed rules.

Comments to the Department of Banking and Finance must be received by the close of business on **Thursday, June 16, 2016**. Please send all comments to:

Kevin B. Hagler, Commissioner
Georgia Department of Banking and Finance
2990 Brandywine Road, Suite 200
Atlanta, GA 30341-5565
Fax: (770) 986-1654 or 1655
Email: dbf@dbf.state.ga.us

The Department shall review all comments, may contact commenters to discuss their suggestions, and, after the comment period has closed, intends on promulgating final rules. The Department will consider the proposed new rules for adoption at a meeting **at 2:00 p.m. on Monday, June 20, 2016**, at the offices of the Department of Banking and Finance at Suite 200, 2990 Brandywine Road, Atlanta, Georgia 30341. Notice and a copy of the final rules adopted will be e-mailed to persons who have made a special request, and will be made available on our website at <http://dbf.georgia.gov/>. Other interested parties may receive a copy of the final rules by contacting the Department at (770) 986-1633, after **Monday, June 20, 2016**.

2016 Rules and Regulations
Proposed Changes: Synopsis, Purpose and Background

80-1-2-.01 General Provisions and Definitions.

The proposed revision eliminates the reference to building and loan associations as that term was removed by House Bill 811 (“HB 811”).

80-1-6-.01 Reports to Department.

The proposed revision proposes that any changes in the office of the president must be reported to the Department to reflect HB 811.

80-1-7-.01 Definitions.

The proposed amendment reflects the revision to the reserve requirement in HB 811.

80-1-7-.02 Records to Be Maintained.

The proposed amendment reflects the revision to the reserve requirement in HB 811.

80-1-7-.03 Amounts of Reserves to Be Maintained.

The proposed amendment reflects the revision to the reserve requirement in HB 811.

80-1-9-.01 Borrowed Money Defined.

The proposed revision eliminates the reference to building and loan associations as that term was removed by HB 811.

80-1-11-.05 Annual Disclosure Statements by Banks.

The proposed amendment eliminates the reference to publishing abstract summaries as that provision was eliminated by HB 811.

80-1-13-.01 Definitions.

The proposed revision eliminates the reference to building and loan associations as that term was removed by HB 811.

80-2-4-.01 Investment of Credit Union Funds in Other Financial Institutions.

The proposed revision eliminates the reference to building and loan associations as that term was removed by HB 811.

80-4-1-01 Definitions.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.02 Incorporation.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.03 Bonds.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.04 Books, Records and Accounts.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.05 Reserves.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.06 Investments.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.07 Borrowing Power.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.08 Membership in a Federal Home Loan Bank.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.09 Insurance of Accounts.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.10 Loans.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.11 Application of Division 80-1 of Rules and Regulations of the Department.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.12 Dividends, Earnings and Interest.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.13 Branches.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.14 Foreclosed Property.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-4-1-.15 Credit for Brokered Loans.

The proposed revision eliminates the rule as building and loan association provisions were removed by HB 811.

80-5-1-.02 License and Supervision Fees for Check Cashers, Payment Instrument Sellers, Money Transmitters, Representative Offices and Mortgage Lenders and Brokers; Due Dates.

The proposed revision clarifies that the imposition of charges for a late renewal of a license is discretionary and provides that the charge is a fine instead of a fee to track current statutory language. The proposed amendment also strikes language related to the transition in the annual licensing period for check cashers in 2014 as the transition is complete. In addition, the proposed rule eliminates the registration fee for representative offices, trust production offices, business production offices, and loan production offices. Finally, the proposed amendment eliminates the fee for a proposed school or education provider.

80-5-1-.03 Examination, Supervision, Registration, Application and Other Fees for Financial Institutions and Nonbank Subsidiaries of Banks or Holding Companies.

The proposed revision eliminates the reference to building and loan associations as that term was removed by HB 811.

80-5-1-.07 License Renewal Periods and Requirements for Mortgage Brokers, Mortgage Lenders, and Mortgage Originators.

The proposed revision alters the reference to Nationwide Mortgage Licensing System and Registry to Nationwide Multistate Licensing System and Registry pursuant to HB 811.

80-5-2-.02 Temporary Closings.

The proposed amendment seeks to align the language in the rule with the revisions found in HB 811.

80-5-3-.01 Sale of Annuities by Financial Institutions; Definitions.

The proposed revision eliminates the reference to building and loan associations as that term was removed by HB 811.

80-5-4-.01 Sale of Insurance by Financial Institutions; Definitions.

The proposed revision eliminates the reference to building and loan associations as that term was removed by HB 811.

80-6-1-.01 Holding Companies, Generally.

The proposed amendment aligns the rule with the provisions in HB 811 that eliminate the registration requirement for holding companies of banks that are not chartered by the Department.

80-6-1-.10 Proxies, Offering Circulars, Disclosure Statements.

The proposed revision updates the reference from The Georgia Securities Act of 1973 to The Georgia Securities Act of 2008.

80-6-1-.16 Qualifying Criteria for Expedited Processing: Establishment of a De Novo Wholly Owned Bank Subsidiary by a Holding Company Lawfully Operating in Georgia.

The proposed amendment reflects the change in HB 811 that eliminates the prohibition against out of state holding companies forming a new bank in Georgia.

80-8-1-.01 Organization.

The proposed rule reflects a recently completed reorganization and a change in responsibilities within the Department.

80-9-1-.02 Suspicious Activities: State Financial Institutions.

The proposed revision seeks to clarify the rule in order to limit the number of SARs that are being submitted to the Department. In addition, the rule provides that whenever a SAR is provided to the Department, a financial institution must inform the Department whether law enforcement or insurers have been notified.

80-10-1-.04 Reimbursement for Cost of Production of Records.

The proposed revision clarifies that a financial institution cannot seek reimbursement for producing records to the Department.

80-11-1-.02 Advertising Requirements.

The proposed revision alters the reference to Nationwide Mortgage Licensing System and Registry to Nationwide Multistate Licensing System and Registry pursuant to HB 811.

80-11-2-.03 Mortgage Loan Transaction Journal.

The proposed revision alters the reference to Nationwide Mortgage Licensing System and Registry to Nationwide Multistate Licensing System and Registry pursuant to HB 811.

80-11-2-.04 Mortgage Loan Files.

The proposed revision alters the reference to Nationwide Mortgage Licensing System and Registry to Nationwide Multistate Licensing System and Registry pursuant to HB 811.

Rule 80-11-3-.01 Administrative Fines.

The proposed amendment eliminates the fine for the failure of a mortgage broker to satisfy the experience and education requirements.

80-11-4-.01 Initial Experience and Education Requirements; Continuing Education.

The proposed amendment eliminates the experience and education requirements for mortgage brokers.

80-11-4-.02 Approved Schools.

The proposed amendment eliminates the rule related to approved schools that provide mortgage broker education.

80-11-4-.05 Knowing Purchase, Sale or Transfer of Loan or Loan Application from Unlicensed Entity, Mortgage Loan Originator Sponsorship Excluded.

The proposed revision alters the reference to Nationwide Mortgage Licensing System and Registry to Nationwide Multistate Licensing System and Registry pursuant to HB 811.

80-11-4-.09 Challenges to Information Entered into the Nationwide Mortgage Multistate Licensing System and Registry.

The proposed revision alters the reference to Nationwide Mortgage Licensing System and Registry to Nationwide Multistate Licensing System and Registry pursuant to HB 811.

80-11-5-.01 Mortgage Loan Originator Licensure Requirements.

The proposed revision alters the reference to Nationwide Mortgage Licensing System and Registry to Nationwide Multistate Licensing System and Registry pursuant to HB 811.

80-11-5-.04 Renewals.

The proposed amendment provides that the failure of a mortgage loan originator to obtain the required continuing education hours by October 31 may result in the imposition of a fine. In addition, the proposed revision provides that if a mortgage loan originator's license has been inactive for: 1) less than three years, the mortgage loan originator can complete the continuing education requirement for the last year the license was active in order to be eligible for reinstatement; 2) between three and five years, the mortgage loan originator license is eligible for reinstatement upon completion of an additional twenty hours of prelicensing education; and 3) five years or more, the mortgage loan originator license is eligible for reinstatement upon successful completion of the additional twenty hours of prelicensing education and passing of the mortgage loan originator test.

80-11-5-.05 Administrative Fines.

The proposed revision alters the reference to Nationwide Mortgage Licensing System and Registry to Nationwide Multistate Licensing System and Registry pursuant to HB 811. The amendment also provides that the failure of a mortgage loan originator to timely obtain the required continuing education hours may result in the imposition of a fine.

80-11-5-.06 Administrative Actions; Nationwide Mortgage Multistate Licensing System and Registry Information Challenges.

The proposed revision alters the reference to Nationwide Mortgage Licensing System and Registry to Nationwide Multistate Licensing System and Registry pursuant to HB 811.

80-11-5-.07 Information on the Nationwide Mortgage Multistate Licensing System and Registry.

The proposed revision alters the reference to Nationwide Mortgage Licensing System and Registry to Nationwide Multistate Licensing System and Registry pursuant to HB 811.

CHAPTER 80-1-2

AGENCY RELATIONSHIPS OF FINANCIAL INSTITUTIONS;

BANK SERVICE CONTRACTS

80-1-2-.01 General Provisions and Definitions.

80-1-2-.01 General Provisions and Definitions.

(1) A state financial institution may contract with another financial institution to provide certain services in a principal-agent relationship, provided both parties comply with the rules of the Department.

(2) Agency relationships shall comport with safety and soundness principles to protect the financial integrity of each financial institution and the accounts of its customers.

(3) Definitions:

(a) The term "agency relationship" shall be as defined in [O.C.G.A. §Code Section 7-1-4\(1.5\)](#).

(b) An "affiliated bank" or "affiliate" shall be as defined in [O.C.G.A. §Code Section 7-1-4\(1\)](#).

(c) "Bank Service Contract" shall mean a contract executed by a bank and a third party, to provide direct or indirect bank services to the bank.

(d) "Department" shall be the Department of Banking and Finance of the State of Georgia.

(e) "Direct Bank Services" shall include traditional banking functions such as taking deposits, paying checks and closing loans.

(f) "Financial institution" shall, for the purposes of this chapter, be a state bank or a national bank, a credit union, a trust company, a ~~building and loan or a~~ savings and loan association or savings bank, wherever located, and may be collectively referred to in this chapter as "bank."

(g) "Georgia Bank" shall be a financial institution organized under the laws of this state, owned by a holding company registered with the Department as a holding company, or, organized under federal law with its home state in Georgia.

(h) "Indirect Bank Services" are those back office, support or enhancement type operations potentially provided by third parties, including but not limited to check and deposit sorting and posting; electronic and video systems for recording bank functions; computation and posting of interest and other credits and charges; preparation and marking of checks, statements, notices and similar items, bill payment and other services requested by customers which are provided by the bank through a third party; loan servicing; or other clerical, bookkeeping, accounting, statistical, customer support or similar functions which may be performed by a bank, whether performed on site or elsewhere, and regardless of the method of delivery.

(i) "Third party" shall mean any provider of services to a bank.

(j) "Unaffiliated Bank" shall mean any Georgia bank which is not an affiliate.

(4) This chapter is not intended to apply to non-banking related operational or administrative functions which do not tend to impact the safety and soundness of the bank or the accessibility to the Department of its records.

Authority O.C.G.A. §7-1-4(1.5); O.C.G.A. §7-1-61; §7-1-261.

CHAPTER 80-1-6

BANK FINANCIAL AND OTHER REPORTS

80-1-6-.01 Reports to Department.

80-1-6-.01 Reports to Department.

Every bank shall within ten (10) days after knowledge thereof report:

(a) The election of any new chief executive officer [or president](#);

(b) The resignation or removal of the chief executive officer, [president](#), or any director, giving the reason for such action;

(c) The discharge or suspension of any employee where the reason for such action was dishonest or fraudulent acts or breach of trust by the employee;

(d) The transfer of any common stock of the bank aggregating fifteen (15) percent of the outstanding shares of common stock of the bank or any smaller transfer resulting in the new owner holding in the aggregate more than twenty-five (25) percent of the outstanding common stock of the bank.

Authority Ga. L. 1974, pp. 733, 735-737; O.C.G.A. 7-1-61.

CHAPTER 80-1-7

LEGAL RESERVES

80-1-7-.01 Definitions.

80-1-7-.02 Records to Be Maintained.

80-1-7-.03 Amounts of Reserves to Be Maintained.

80-1-7-.01 Definitions.

(1) Legal Reserve:

(a) Lawful money of the United States in the office and vaults of the [bank/financial institution](#).

(b) Moneys on deposit subject to immediate call with other federally insured banks-financial institutions such as approved by the Department of Banking and Finance pursuant to Code Section 7-1-370 or with a Federal Reserve Bank, except where such deposits are for the purpose of meeting reserve requirements against assets pursuant to the Federal Credit Control Act of 1969 and regulations pursuant thereto.

1. Reciprocal demand balances due to such banks-financial institutions shall be deducted from the balance due from those banks-financial institutions before making any calculations.

2. Outgoing cash letters shall be included and incoming cash letters deducted before making any calculations of available moneys on deposit.

(c) Cash items and clearings held over shall not be regarded as Legal Reserves within the meaning of this regulation.

~~(2) Gross Demand Deposits means the sum of all demand deposits made by other banks-financial institutions, the United States, states, counties, school districts, and other governmental subdivisions and municipalities, and all outstanding certified and officers' checks and letters of credit and travelers' checks sold for cash.~~

~~—(3) Net Demand Deposits shall mean the gross demand deposits, less the following allowable deductions:~~

~~—(a) Demand deposits which are legally secured by a pledge of bank financial institution assets to the extent of the smaller of the market value of such assets or the secured deposit balance;~~

~~—(b) Net Due From Reciprocal Demand Bank Financial Institution Balances.~~

~~—(4) Gross Time Deposits shall include savings deposits, certificates of deposit, time deposits open accounts, and savings club accounts, and all other accounts which are subject to not less than thirty (30) days' notice, in writing, before withdrawal of the deposit or which otherwise have a fixed maturity date at which time deposits may be withdrawn.~~

~~—(a) A deposit which, at the time of deposit, came within the definition of gross time deposits above, shall continue to be considered a time deposit until such time as it is presented for payment, or the required notice is given to the bank financial institution that withdrawal of funds will be made.~~

~~—(5) Net Time Deposits are defined as the gross time deposits, less the following allowable deductions:~~

~~—(a) Time deposits which are legally secured by a pledge of bank financial institution assets to the extent of the smaller of the market value of such assets or the secured deposit balance, and~~

~~—(b) Net Due from Reciprocal Time Bank Balances.~~

(62) Banks-Financial institutions eligible to act as a depository for reserves of other banks-financial institutions shall be either a Federal Reserve Bank or ~~an F.D.I.C. insured bank~~ a federally insured bank or credit union domiciled within the United States; provided that no bank-financial institution may deposit reserve balances in any such depository in excess of the greater of ten (10) percent of the depositing

~~bank's financial institution's~~ total capital notes, common capital, and surplus, or \$~~400250~~,000, unless prior approval of such depository is granted by the Commissioner.

(~~7~~3) The biweekly averaging period shall commence on any Thursday and shall continue for the next consecutive 14-calendar-day period. Calculations of reserves and reserve requirements shall include data from all business days; provided ~~banks-financial institutions~~ which are open for business, making loans, taking deposits, or both, six days per week may designate to exclude data from any Wednesday, Thursday, or Saturday for which deposit ledgers are not regularly posted, but not more than one day each week may be so excluded. Wherever data is unavailable or excluded for a calendar day, data from the previous business day shall be used in lieu thereof.

Authority Ga. L. 1974, pp. 733, 820-822.

80-1-7-.02 Records to Be Maintained.

Where reserves are required pursuant to Rule 80-1-7-.03(2), each ~~bank-financial institution~~ shall maintain, for a period of not less than two calendar years, a record of its biweekly calculations of reserve requirements and reserves maintained. Such record shall be subject to review during examinations of the ~~financial institution~~~~bank~~. A copy of the recommended format to be used in calculating reserves will be available from the Department of Banking and Finance, but alternative forms may be utilized if they provide the same basic information as provided by the recommended form.

Authority Ga. L. 1974, pp. 733, 820-822.

80-1-7-.03 Amounts of Reserves to Be Maintained.

(1) Every ~~bank-financial institution~~ shall maintain ~~legal reserves equal to the larger of:~~

~~—(a) a minimum of the legal R~~eserves required to be maintained pursuant to the ~~Federal-federal~~ "Monetary Control Act of 1980" ~~and other applicable federal requirements. The reserve requirement is the minimum acceptable for a financial institution whose overall financial condition is fundamentally sound, which is well-managed and which has not material or significant operational or financial weaknesses. In the event the Department concludes that a financial institution does not satisfy these standards, the Department may establish a higher reserve requirement for a financial institution to maintain.~~

~~—(b) Reserves required by paragraph (2) of this Rule.~~

(2) ~~Average legal reserves for banks shall be maintained at the following levels:~~

~~—(a) Against Net Demand Deposits..... 0~~

~~—(b) Against Net Time Deposits..... 0~~

~~—(3) The following exceptions to paragraph (2) are permitted:~~

~~—(a) Not more than fifty (50) percent of the reserve against demand deposits may be invested in bonds of the United States or agencies thereof and bonds of the State of Georgia or agencies thereof at market value which are not pledged to secure other deposits and which mature in less than one year, or in certificates of deposits issued by, and Federal or Correspondent Funds sold to, approved federally insured depositories insured by the Federal Deposit Insurance Corporation; provided, each certificate must mature within one year and the aggregate amount deposited with or sold to any one bank financial institution shall not exceed \$100250,000 or ten (10) percent of the depositing bank's financial institution's reserve requirement, whichever is greater.~~

~~—(b) The reserve against savings and time deposits may be invested in bonds of the United States or agencies thereof or obligations of this State or agencies thereof, at the market value thereof, or in certificates of deposits issued by, and Federal or Correspondent Funds sold to, approved federally insured depositories insured by the Federal Deposit Insurance Corporation, which are not pledged to secure deposits and not used to meet reserve requirements against demand deposits.~~

~~—(c) Banks Financial institutions which are members of the Federal Reserve System may governed by 12 C.F.R. § 204 shall, in lieu of the reserve herein required, keep and maintain such reserve as is required for membership therein in accordance with the applicable federal requirements.~~

Authority Ga. L. 1974, pp. 733, 802-822.

CHAPTER 80-1-9

BORROWED MONEY

80-1-9-.01 Borrowed Money Defined.

80-1-9.01 Borrowed Money Defined.

Borrowed money for purposes of this Regulation and as used in O.C.G.A. §Section 7-1-291 ~~of the Code of Georgia~~ shall mean the sum of all moneys owed by a bank including participations sold with recourse but excluding:

- (a) Liabilities for deposits and official checks recorded during the regular course of business,
- (b) Liabilities for moneys accrued as expenses payable or income deferred,
- (c) Liabilities for commercial paper rediscounted,
- (d) Liabilities to Federal Reserve Bank on account of money borrowed or rediscounts,
- (e) Liabilities on account of the acquisition of reserve balances at a Federal Reserve Bank or other reserve agent from a member or nonmember bank,
- (f) Liabilities on account of agreements to repurchase securities sold by the bank (commonly known as "repurchase agreements"),

(g) Liabilities which result from the purchase of Federal or Correspondent Funds in excess of amounts excluded under subparagraph (d) herein to the extent that such Federal or Correspondent Funds are held for resale to other financial institutions,

(h) Liabilities which result from the acquisition of excess funds of any state ~~building and loan~~ or federal savings and loan association for the purpose of investing such funds in the "federal fund" market at the direction of the association,

(i) Liabilities which result from borrowing from the Export-Import Bank of the United States to the extent that such borrowings are secured by obligations to the bank which are guaranteed by the Export-Import Bank, and

(j) Liabilities in the form of subordinated securities pursuant to [O.C.G.A. §Code Section 7-1-419](#).

Authority Ga. L. 1974, pp. 733, 801, 802.

CHAPTER 80-1-11

PUBLIC DISCLOSURE OF INFORMATION

80-1-11-.05 Annual Disclosure Statements by Banks.

80-1-11-.05 Annual Disclosure Statements by Banks.

~~(a) Financial institutions who elect to make their annual disclosure statement available in accordance with this Rule shall be relieved from publishing an abstract summary of condition pursuant to Code Section 7-1-68.~~

(b) Requirement of availability - Each bank shall make its annual disclosure statement available to requesters beginning not later than March 31 following its issuance or, if the bank or its holding company mails an annual report to its shareholders, beginning not later than five days after the mailing of such reports, whichever occurs first. A bank shall continually make a disclosure statement available until the disclosure statement for the succeeding year becomes available.

(b) Contents - The disclosure statement may, at the option of the bank, consist of the bank's entire Call Report for the relevant dates and periods. At a minimum, the statement must contain information comparable to that provided in the following Call Report schedules: Balance Sheet; Past Due and Nonaccrual Loans and Leases; Income Statement; Changes in Equity Capital; Charge-Offs and Recoveries and Changes in Allowance for Loan and Lease Losses.

(c) Notice - A notice, which the bank shall at all times display, shall be posted in the lobby of its main office and each branch office, informing its customers and general public that the annual disclosure statement may be obtained from the bank. The notice shall include at a minimum an address and telephone number to which the request should be directed. The first copy of the annual disclosure statement shall be provided to a requester free of charge.

(ed) Delivery - Each bank shall, after receiving a request for an annual disclosure statement, promptly mail or otherwise furnish a statement to the requester.

Authority Ga. L. 1974, p. 733; O.C.G.A. § 7-1-61; O.C.G.A. § 7-1-68.

CHAPTER 80-1-13

CORRESPONDENT FUNDS

80-1-13-.01 Definitions.

80-1-13-.01 Definitions.

(1) Correspondent (or Federal) Funds shall mean excess funds of one financial institution placed with another financial institution at interest and subject to immediate withdrawal. Funds shall include "unsecured day(s) funds".

(2) For purposes of this Rule, "financial institution" shall mean any of the following:

(a) A state or federally chartered bank;

(b) A state or federally chartered savings and loan ~~or building and loan~~ association;

(c) A state or federally chartered credit union;

(d) A foreign banking institution holding a state or federal license to maintain a branch or agency in any state of the United States.

Authority Ga. L. 1974, pp. 705, 733, 793; Ga. L. 1981, H.B. 822.

CHAPTER 80-2-4

INVESTMENT OF CREDIT UNION FUNDS

80-2-4-.01 Investment of Credit Union Funds in Other Financial Institutions.

80-2-4-.01 Investment of Credit Union Funds in Other Financial Institutions.

(1) No credit union chartered by the State of Georgia shall invest its funds which are not used in loans in any bank, ~~building and loan association~~, savings and loan association, or credit union in an amount exceeding five (5) percent of the total deposits of the bank, ~~building and loan association~~, savings and loan association or credit union; or such larger amount as may be approved by the Department.

(2) For purposes of this Rule, the total deposits of the bank, ~~building and loan association~~, savings and loan association, or credit union shall be that amount reported in the depository's most recent statement of condition.

CHAPTER 80-4-1
BUILDING AND LOAN
ASSOCIATIONS GENERALLY

- 80-4-1-01 — ~~Definitions.~~ Repealed and Reserved.
- 80-4-1-02 — ~~Incorporation.~~ Repealed and Reserved.
- 80-4-1-03 — ~~Bonds.~~ Repealed and Reserved.
- 80-4-1-04 — ~~Books, Records and Accounts.~~ Repealed and Reserved.
- 80-4-1-05 — ~~Reserves.~~ Repealed and Reserved.
- 80-4-1-06 — ~~Investments.~~ Repealed and Reserved.
- 80-4-1-07 — ~~Borrowing Power.~~ Repealed and Reserved.
- 80-4-1-08 — ~~Membership in a Federal Home Loan Bank.~~ Repealed and Reserved.
- 80-4-1-09 — ~~Insurance of Accounts.~~ Repealed and Reserved.
- 80-4-1-10 — ~~Loans.~~ Repealed and Reserved.
- 80-4-1-11 — ~~Application of Division 80-1 of Rules and~~
~~Regulations of the Department.~~ Repealed and Reserved.
- 80-4-1-12 — ~~Dividends, Earnings and Interest.~~ Repealed and Reserved.
- 80-1-1-13 — ~~Branches.~~ Repealed and Reserved.
- 80-4-1-14 — ~~Foreclosed Property.~~ Repealed and Reserved.
- 80-4-1-15 — ~~Credit for Brokered Loans.~~ Repealed and Reserved.

— **80-4-1-01 Definitions.** Repealed and Reserved.

— (1) “Association” means a Building and Loan Association as defined in Section 7-1-770 of the Financial Institutions Code of Georgia. Unless clearly indicated to the contrary, “association” shall include a State savings and loan as defined in Section 7-1-4(32) of the Financial Institutions Code of Georgia.

— (2) “Share Capital” means the aggregate of payments on deposit accounts by members, plus dividends credited to such accounts, less redemption and purchase payments, plus any retained earnings accumulated; provided, however, in the case of a State savings and loan association, the term “share capital” shall mean the “statutory capital base” as defined in Section 7-1-14(35) of the Financial Institutions Code of Georgia.

Authority Ga. L. 1974, pp. 705, 733, 945.

~~— **80-4-1-.02 Incorporation. Repealed and Reserved.**~~

~~— (1) No approval of the grant of any new charter to any association will be made unless it shall be shown to the satisfaction of the Commissioner that the persons proposing to create such new association are of good character and responsibility; that a necessity for such an association exists in the community to be served; that there is a reasonable probability of its usefulness and success; and that the establishment of such association will not cause undue injury to properly conducted existing local thrift and home-financing institutions. Not fewer than 200 persons shall subscribe for share capital of at least \$1,000,000. The Commissioner may require a larger number of subscribers and/or a larger amount of share capital to be subscribed based upon the projected needs of the association.~~

~~— (2) No approval of any charter, amendment thereto, renewal thereof, bylaws or amendments thereto, will be granted unless satisfactory to the Commissioner both as to form and substance.~~

~~— (3) No approval of the grant of any new charter to any association will be made unless it shall be shown to the satisfaction of the Commissioner that such association will have their accounts insured in accordance with the provisions of Code Section 7-1-797.~~

~~— (4) Not less than five (5) percent of the subscribed capital shall be set aside to cover operating expenses of the association during the initial period of its corporate existence. The Commissioner may require such greater sums as he feels necessary to the safe and sound operation of the association.~~

~~— (5) In lieu of the foregoing requirements of this Rule 80-4-1-.02, a State savings and loan association shall be incorporated pursuant to those requirements and standards set forth in Sections 7-1-390 through 7-1-398 of the Financial Institutions Code of Georgia applicable to commercial banks and regulation 80-1-1 and the Statement of Policies issued in furtherance of that Code Chapter.~~

Authority Ga. L. 1974, pp. 705, 733, 945.

~~**80-4-1-.03 Bonds. Repealed and Reserved.**~~

~~— Any director who is authorized to handle money or negotiable assets on behalf of an association and all officers and employees of an association shall be bonded by a regularly incorporated surety company authorized to do business in this State, and the association may pay the cost of such bond. The form, amount and surety of such bonds shall be such as is approved by the Board of Directors, but the Department may require an additional amount or new or additional surety.~~

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.04 Books, Records and Accounts. Repealed and Reserved.

~~—(1) Every association shall keep at its office correct and complete books of account and minutes of the proceedings of members, directors, and the Executive Committee. Complete records of all business transacted shall be maintained at the office of the association. Every association shall use such forms and observe such accounting principles and practices as are approved by the Commissioner.~~

~~—(2) No association by any system of accounting or any device of bookkeeping shall, either directly or indirectly, enter any of its assets upon its books in the name of any other person, partnership, association, or corporation, or under any title or designation that is not truly descriptive of such assets. The Commissioner may order that assets in the aggregate to the extent that such assets have depreciated in value, be charged off, or that a special reserve or reserves equal to such depreciation in value be set up by transfers from undivided profits. The bonds or other interest bearing obligations purchased by an association shall not be carried on its books at more than the actual cost thereof. An association shall not carry any real estate on its books at a sum in excess of the total amount invested by such association on account of such real estate, including advances, costs and improvements but excluding accrued but uncollected interest; provided, however, nothing herein shall prohibit appropriate accretion of discounts realized on securities purchased or otherwise accounting for the financial affairs of the association in accordance with generally accepted accounting principles.~~

~~—(3) Every association shall appraise each parcel of real estate at the time of acquisition thereof. The Commissioner may require the appraisal of real estate securing loans which are delinquent more than six months. The report of each such appraisal shall be submitted in writing to the Board of Directors and shall be kept in the records of the association.~~

~~—(4) Every association shall maintain membership records, which shall show the number of each membership certificate issued, the name and address of the member to whom issued, whether the member is a share account holder, or a borrower, or a share account holder and a borrower, the date of issue thereof, the name and address of each transferee of each membership certificate, and the date of transfer.~~

~~—(5) Unless provided to the contrary in this Rule 80-4-1-.04, every association shall maintain its books and records in accordance with the provisions of Rule Chapter 80-1-3.~~

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-.05 Reserves. Repealed and Reserved.

~~—(1) Every association shall set up and maintain the reserves required by and may set up and maintain such additional reserves as are permitted by these regulations. After payment of or provisions for all expenses, each association shall, before the declaration of any dividend, transfer to a separate reserve account, which shall be set up and maintained for the sole purpose of absorbing losses (termed in these regulations “General Reserve”), an amount equal to five (5) percent of its net earnings before payment of dividend/interest, until the General Reserve is equal to ten (10) percent of its capital. If and whenever the General Reserve is not equal to ten (10) percent of its capital, credits as above provided shall again be made to the General Reserve, until it shall again be equal to ten (10) percent of its capital. The Board of~~

~~Directors may make additional reasonable transfers to the General Reserve or to other reserve accounts or retain reasonable amounts in Undivided Profits.~~

~~—(2) For purposes of these reserve requirements, an association whose deposits are insured by a Federal Deposit Insurance Program may consider allocations to a Federal Insurance Reserve as complying with the five (5) percent minimum allocation from net income as outlined above. It is further provided that a minimum loss reserve equal to five (5) percent of total share liability must be attained by every association by the end of the 20th year of operation; provided further, however, that every association must continue to set aside five (5) percent of net income for loss reserve until the combined loss reserves are equal to ten (10) percent of share liability.~~

~~—(3) Explanation: The association at the end of the 20th year of operation must have an established loss reserve of not less than five (5) percent of the total withdrawable savings accounts at the end of the fiscal year. Thereafter, the association must allocate to the loss reserve not less than five (5) percent of net income after expenses and before payment of earnings on savings accounts until the loss reserve reaches ten (10) percent of total withdrawable savings. So long as the reserve remains at or above ten (10) percent of total withdrawable savings, no annual allocation is required. Should the reserve fall below ten (10) percent, the requirement of five (5) percent allocation would again apply.~~

~~—(4) In the case of a State chartered association, whose deposits are insured by a Federal Deposit Insurance Program, the minimum loss reserve requirement shall be the requirement stated above or the Federal Insurance requirement, whichever is greater.~~

~~—(5) Every association shall maintain a Liquidity Reserve in accordance with the provisions of Regulation 80-1-7 promulgated by the Commissioner.~~

~~—(6) The Commissioner may require additional, specific reserves based upon the asset condition and needs of the association.~~

~~—(7) Sections (1) through (3) of this Rule 80-4-1-.05 shall not be applicable to a State savings and loan association. In lieu therefore, a State savings and loan association shall be subject to the provisions of Department of Banking and Finance Rule Chapter 80-1-12 applicable to commercial banks. Further, a State savings and loan association shall maintain a loss reserve equal to at least the average annual losses sustained from its lending activities during the most recent five calendar years of its operations.~~

~~Authority Ga. L. 1974, pp. 705, 733, 945.~~

80-4-1-.06 ~~Investments.~~ Repealed and Reserved.

~~(1) An association shall have power to invest in securities as follows:~~

~~—(a) Without limit, in obligations of, or guaranteed as to principal and interest by, the United States or the State of Georgia;~~

~~—(b) Without limit, in obligations of Federal Home Loan Banks;~~

~~—(c) In stock of a Federal Home Loan Bank of which it is eligible to be a member;~~

~~—(d) In the shares or share accounts of any association and of any Federal Savings and Loan Association not in excess of the maximum amount insurable in any such institutions;~~

~~—(e) In obligations to the Federal National Mortgage Association, Federal Intermediate Credit Banks, and Banks of Cooperatives; and~~

~~—(f) In obligations or securities and to such limits as is allowed for investments by commercial banks pursuant to Regulation 80-1-4.~~

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-07 Borrowing Power. Repealed and Reserved.

~~—An association shall have power to borrow funds of not more than an aggregate amount equal to one-half of its share capital. A subsequent reduction of capital shall not affect in any way outstanding obligations for borrowed money. All such loans and advances may be secured by assets of the association. The Commissioner may permit borrowing in excess of the above limitations upon application.~~

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-08 Membership in a Federal Home Loan Bank. Repealed and Reserved.

~~—Any association shall have power to become a member of a Federal Home Loan Bank, to obtain loans from such bank to the full extent permitted by the Federal Home Loan Bank Act, and to pledge collateral as security for such loans, to comply with any condition of such membership or such credit, and to have and exercise all powers, rights and privileges conferred upon such member by the Federal Home Loan Bank Act.~~

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-09 Insurance of Accounts. Repealed and Reserved.

~~—Any association shall have power to apply for, obtain and pay for insurance of its deposit accounts, and comply with conditions or requirements incidental thereto and not inconsistent with the provisions of Code Title 7.~~

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1-10 Loans. Repealed and Reserved.

~~—(1) An association may make loans to its members on the security of its deposits.~~

~~—(2) An association may make loans secured by real estate and improvements thereon or an interest therein, which loans shall be amortized and repayable in consecutive monthly installments, equal or unequal, beginning not later than sixty (60) days after the date of the advance of the loan, sufficient to retire the debt, interest and principal, within forty (40) years; provided, however, that any loan contract extending for more than sixty (60) months shall not provide for any subsequent monthly installment after the sixtieth such installment of an amount larger than any previous monthly installment. Provided further, that in the case of construction loans, the first installment shall not be later than twenty four (24) months after the date of the first advance; and no such loan, during the construction phase, shall exceed the estimated value of the property. Provided, however, unamortized loans secured by real estate may be made in accordance with the provisions of Section 7-1-286 of the Financial Institutions Code of Georgia and Regulation 80-1-5-.02.~~

~~—(3) An association shall make loans of the types described in this Regulation in accordance with the provisions of Section 7-1-286 of the Financial Institutions Code of Georgia and Regulation 80-1-5-.02 unless otherwise provided herein.~~

~~—(4) Aggregate loans to a single borrower shall not exceed two (2) percent of an association's share capital or \$75,000, whichever is greater. Provided, in lieu of the foregoing, a State savings and loan association shall comply with the provisions of Section 7-1-285 and Rule 80-1-5 in determining the maximum aggregate loans which may be made to a single borrower.~~

~~—(5) Every real estate loan shall be secured by a mortgage or other instrument constituting a lien, or the full equivalent thereof, upon the real estate securing the loan according to any lawful or well recognized practice which is best suited to the transactions.~~

~~—(6) An association may make or purchase any and all loans specifically authorized to be made or purchased in this State by federal chartered savings and loan associations providing such association meets all of the conditions and requirements set forth with reference to such lending by federal associations.~~

~~—(7) An association may participate with other lenders in making loans of any type that such association may otherwise make.~~

~~—(8) An association may make loans or otherwise extend credit to its officers and directors, provided such extensions of credit are in compliance with the provisions of Section 7-1-491 of the Financial Institutions Code of Georgia.~~

~~—(9) Except as otherwise provided in this Chapter 80-4-1, all extensions of credit made by an association shall conform with the provisions of Sections 7-1-285 and 7-1-286 of the financial Institutions Code of Georgia and Regulation 80-1-5 promulgated pursuant thereto.~~

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1.11 Application of Division 80-1 of Rules and Regulations of the Department. Repealed and Reserved.

~~—(1) The following Rules of the Department applicable to other financial institutions shall be applicable to an association:~~

- ~~—(a) Chapter 80-1-1 relating to Applications;~~
- ~~—(b) Chapter 80-1-2 relating to Bank Service Contracts;~~
- ~~—(c) Chapter 80-1-3 relating to Books and Records;~~
- ~~—(d) Rule 80-1-5-.04 relating to Participation Loans;~~
- ~~—(e) Chapter 80-1-6 relating to Bank Financial Reports and Other Reports;~~
- ~~—(f) Chapter 80-1-8 relating to Dormant Accounts;~~
- ~~—(g) Chapter 80-1-10 relating to Fixed Assets;~~
- ~~—(h) Chapter 80-1-11 relating to Public Disclosure of Information; and~~
- ~~—(i) Chapter 80-1-14 relating to Audits.~~

~~—(2) The Department may provide for exceptions to the foregoing when appropriate to draw distinctions between a building and loan association, a State savings and loan association and other financial institutions in keeping with the provisions of Sections 7-1-3 and 7-1-61 of the Financial Institutions Code of Georgia.~~

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1.12 Dividends, Earnings and Interest. Repealed and Reserved.

~~—An association may, after adoption by its Board of Directors of a resolution so providing and while such resolution remains in effect, distribute earnings on any designated class or classes of deposit accounts as of such date or dates as may be designated in such resolution; provided, the association shall not pay any dividend or interest which would impair the General Reserve Fund without the prior approval of the Commissioner. Such payments of dividends or interest may not exceed amounts allowed to be paid by a federal savings and loan association.~~

Authority Ga. L. 1974, pp. 705, 733, 945.

80-4-1.13 Branches. Repealed and Reserved.

~~—An association shall not establish branches of such association unless there is a reasonable probability of its usefulness and success; and that the establishment of such branch will not cause undue injury to~~

~~properly conducted existing local thrift and home financing institutions, and until a permit has been issued by the Commissioner authorizing the establishment of such branch institutions.~~

~~Authority Ga. L. 1974, pp. 705, 733, 945.~~

~~80-4-1-.14 Foreclosed Property. Repealed and Reserved.~~

~~—An association may acquire and hold property for the purpose of avoiding loss subject to a determination by a majority of its directors at least once each year as to the advisability of retaining any such property, provided no such property may be held for more than five (5) years without the prior written approval of the Department. Shares of its own stock so acquired and shares of stock of any State savings and loan association, bank, bank holding company, or trust company so acquired must be sold or otherwise divested within six months after such acquisition unless the Department approves a longer holding period. Holding of foreclosed property shall further be subject to the provisions of Regulation 80-1-10-.09.~~

~~Authority Ga. L. 1974, pp. 705, 733, 945.~~

~~80-4-1-.15 Credit for Brokered Loans. Repealed and Reserved.~~

~~—In determining whether an association conforms with the minimum requirements for residential real estate loans, credit shall be given for loans generated through the association although sold to other investors in accordance with the following:~~

~~—Loans closed during the preceding:~~

0	12th months	100%
13th	24th months	95%
25th	36th months	90%
37th	48th months	85%
49th	60th months	80%
61st	72nd months	75%
73rd	84th months	70%

~~Authority Ga. L. 1974, pp. 703, 733, 945.~~

CHAPTER 80-5-1

SUPERVISION, EXAMINATION, REGISTRATION AND INVESTIGATION FEES, ADMINISTRATIVE LATE FEES

80-5-1-.02 License and Supervision Fees for Check Cashers, Payment Instrument Sellers, Money Transmitters, Representative Offices and Mortgage Lenders and Brokers; Due Dates.

80-5-1-.03 Examination, Supervision, Registration, Application and Other Fees for Financial Institutions and Nonbank Subsidiaries of Banks or Holding Companies.

80-5-1-.07 License Renewal Periods and Requirements for Mortgage Brokers, Mortgage Lenders, and Mortgage Originators.

80-5-1-.02 License and Supervision Fees for Check Cashers, Payment Instrument Sellers, Money Transmitters, Representative Offices and Mortgage Lenders and Brokers; Due Dates.

(1) Payment instrument sellers and money transmitters.

(a) The annual license fee is one thousand nine hundred dollars (\$1,900) for payment instrument sellers and nine hundred dollars (\$900) for money transmitters.

(b) The annual renewal license fee is one thousand nine hundred dollars (\$1,900) for payment instrument sellers and nine hundred dollars (\$900) for money transmitters and shall be due and must be received by the Department on or before the first day of December of each year. Where the person or corporation engages in both the sale of payment instruments and money transmission, the higher of the two fees shall be due and payable. A licensee whose renewal application and annual license renewal fee is not received by the Department on or before December 1 ~~will~~may be assessed a late ~~fee~~fine of three hundred dollars (\$300) and cannot be assured of renewal of its license prior to January 1.

(c) An additional non-refundable application investigation fee of two hundred fifty dollars (\$250) will be assessed.

(d) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-1-688 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars (\$500).

(2) Check Cashers.

(a) The annual license fee is three hundred dollars (\$300).

(b) The annual renewal license fee is three hundred dollars (\$300).

(c) An initial investigation and supervision fee shall be five hundred fifty dollars (\$550) for the first year. It is not refundable, but if the license is granted it shall satisfy the annual fee for the first license period.

(d) Initial and renewal license fees shall also include an additional thirty dollars (\$30) for the second and each additional location, plus a fee in an amount as directed by the Department to cover the cost of the required number of fingerprints for each individual background check.

(e) Annual renewal license fees shall be due and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual renewal license fee is not received by the Department on or before the first day of December of each year ~~will~~ may be assessed a late ~~fee~~ fine of three hundred dollars (\$300) and cannot be assured of renewal of its license prior to January 1.

(f) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-1-705.1 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars (\$500).

~~(g) Any person that was registered with the Department as a cashier of checks prior to June 30, 2014 shall be deemed to be a licensee and not a registrant effective July 1, 2014. Effective July 1, 2014, all former registrants shall comply with all laws and regulations governing licensees. Pursuant to O.C.G.A. § 7-1-704, such license shall expire on December 31, 2014.~~

~~(h) Any person that, as of the effective date of this rule, was licensed by the Department or registered with the Department as a cashier of checks for all or part of the period from October 1, 2013 through September 30, 2014 shall have its license extended through December 31, 2014. Pursuant to O.C.G.A. § 7-1-704, such license shall expire on December 31, 2014.~~

(3) Registrants of representative offices, trust production offices, business production offices, and loan production offices shall file a registration statement, as prescribed by the Department, ~~and shall pay a registration fee of one hundred fifty dollars (\$150)~~ on or before January 31 of each year. ~~Such fee is intended to cover the costs of responding to questions or complaints from consumers with regard to these entities doing business in Georgia and is in lieu of registration under O.C.G.A. § 16-14-15, as provided in O.C.G.A. § 7-1-11.~~ Registrants of international bank representative offices shall pay a registration fee of one thousand dollars (\$1,000).

(4) Mortgage licensees and registrants.

(a) Lenders. The initial and renewal application and license fee for mortgage lenders shall be nine hundred dollars (\$900). The initial fee of nine hundred dollars (\$900) covers the main office. Any branch offices included in the initial application shall be assessed a fee of three hundred thirty dollars (\$330) each. A fee of three hundred thirty dollars (\$330) will be assessed for each additional office not initially registered, if such office is located in Georgia, and if mortgage lending activity is conducted at the office. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and license fees, must be received on or before December 1 of each year or the applicant ~~will~~ may be assessed a late ~~fee~~ fine of three hundred dollars (\$300). A renewal application and license fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(b) Brokers. The initial and renewal application and license fee for mortgage brokers shall be four hundred dollars (\$400). The initial four hundred dollar (\$400) fee covers the main office. Any branch offices located in Georgia shall be assessed a fee of three hundred thirty (\$330) each. Brokers include loan processors. Processors are defined in Rule 80-11-4-.07. Such a processor may have a separate main office and other branch offices where mortgage loan processing is done. The offices will be treated the same as brokers' offices. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant ~~will~~may be assessed a late ~~fee~~fine of three hundred dollars (\$300). A renewal application and license fee that is not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(c) Mortgage Loan Originators. The initial and renewal application and license fee for mortgage loan originators shall be one hundred dollars (\$100). Subsequent renewal application fees must be received by the Department on or before December 1 of each year or the applicant ~~will~~may be assessed a late ~~fee~~fine of one hundred dollars (\$100). A renewal application is not deemed received until all required information, including a renewal fee in the appropriate amount and documentation showing that the requisite continuing education hours have been obtained, has been provided by the licensee. A renewal application, containing all of the required information along with the correct fees and proof of required continuing education that is not received by the Department on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. ~~Effective August 1, 2010, a~~Δ applicants may not conduct mortgage loan origination activity without a current license.

(d) Lender Registrants. The initial and renewal application and registration fee for mortgage lenders required to register but not be licensed with the Department shall be nine hundred dollars (\$900), due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and registration fees must be received on or before December 1 of each year or the applicant ~~will~~may be assessed a late ~~fee~~fine of three hundred dollars (\$300). A renewal application and registration fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(e) Broker Registrants. The initial and renewal application and registration fee for mortgage brokers required to register but not be licensed with the Department shall be four hundred dollars (\$400), due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and registration fees must be received on or before December 1 of each year or the applicant ~~will~~may be assessed a late ~~fee~~fine of three hundred dollars (\$300). A renewal application and registration fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(f) All license, investigation, registration, and supervision fees, late fees and assessed civil penalties must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, reapplication for a license or registration or any other approval from the Department.

(g) All late fees collected by the Department, net of the cost of recovery, which cost shall include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. § 7-1-1018(e).

(h) Applicants for approval to acquire directly or indirectly ten percent (10%) or more of the voting shares of a corporation or ten percent (10%) or more of the ownership of any other entity licensed to conduct business as a mortgage lender and/or a mortgage broker under O.C.G.A. Article 13 (otherwise called change of control) shall pay a nonrefundable investigation, application and processing fee of five hundred dollars (\$500).

(i) Application for an additional office of a licensee shall be accompanied by a nonrefundable fee of three hundred thirty dollar (\$330), as provided in O.C.G.A. §7-1-1006.

~~(j) The fee for initial application for approval by the Department for a school or education provider shall be five hundred dollars (\$500). An application for approval will be on a form provided by the Department. The fee is nonrefundable. The fee for annual renewal of such approval is two hundred fifty dollars (\$250).~~

(5) The Department may discount or surcharge all supervision or license fees herein provided to assure funding of annual appropriations by the General Assembly.

(6) Any fees or charges imposed by the Nationwide Multistate Licensing System and Registry (“NMLSR”) shall be independent of any fees charged by the Department. Applicants, licensees, and registrants will be responsible for any and all fees or charges imposed by NMLSR.

Authority Ga. L. 1974, pp. 705, 732, 733, 921; Ga. L. 1976, Act 762, p. 168; 1990, p. 739; 1993, p. 543; O.C.G.A. § 7-1-41; § 7-1-61; § 7-1-683; § 7-1-685; O.C.G.A. § 7-1-702; O.C.G.A. § 7-1-704; O.C.G.A. § 7-1-716; O.C.G.A. § 7-1-721; § 7-1-1001.1; and § 7-1-1005.

80-5-1-.03 Examination, Supervision, Registration, Application and Other Fees for Financial Institutions and Nonbank Subsidiaries of Banks or Holding Companies.

(1) Examinations. That portion of annual appropriations allocable to regular examination and supervision activities shall be assessed in accordance with the following scale for depository financial institutions:

(a)

If the amount of Total Assets is:		Assessment will be:		
Over	But Not Over	This Amount	Plus	Of Excess Over
0	1,700,000	0	0.001800	* 0
1,700,000	15,000,000	3,060	0.000230	1,700,000
15,000,000	85,000,000	6,119	0.000190	15,000,000
85,000,000	185,000,000	19,419	0.000100	85,000,000
185,000,000	915,000,000	29,419	0.000095	185,000,000
915,000,000	1,825,000,000	98,769	0.000085	915,000,000
1,825,000,000	5,470,000,000	176,119	0.000072	1,825,000,000
5,470,000,000	18,240,000,000	438,559	0.000056	5,470,000,000
18,240,000,000	36,485,000,000	1,153,679	0.000050	18,240,000,000
36,485,000,000	45,000,000,000	2,065,929	0.000040	36,485,000,000
45,000,000,000	57,000,000,000	2,406,529	0.000035	45,000,000,000
57,000,000,000	92,000,000,000	2,826,529	0.000030	57,000,000,000
92,000,000,000	130,000,000,000	3,876,529	0.000025	92,000,000,000
130,000,000,000	180,000,000,000	4,826,529	0.000023	130,000,000,000
180,000,000,000		5,976,529	0.000020	180,000,000,000

* Minimum assessment is \$350.

Note: Total Assets and resultant assessment may be rounded to the nearest dollar.

(b) All other financial institutions, including credit card banks, bankers banks, central credit unions, and related corporations not covered elsewhere in this Section, licensees under Article 4 (Payment Instrument Sellers and Money Transmitters) and 4A (Check Cashers) of Chapter 1 of Title 7, licensees and registrants under Article 13 of Chapter 1 of Title 7(Georgia Residential Mortgage Act), and trust departments shall pay an examination fee at the rate of \$65 per examiner-hour but not less than \$500 unless such examination is conducted in conjunction with another ongoing examination in which case there shall be no minimum charge. The above per hour charge shall be compensation for the work of

Department examiners as well as any necessary, qualified outside assistance. The examination fee shall be due and payable immediately upon receipt of documentation from the Department setting forth the total amount of the fee. The \$500 minimum charge may be waived by the Commissioner or his/her designee when such charge clearly exceeds the hours spent on an examination.

(c) Notwithstanding the provisions of subsection (b) above, licensees under Article 13 of Chapter 1 of Title 7 shall pay the actual cost incurred by the Department in the conduct of an out of state examination, including personnel costs, transportation costs, meals, lodging and other incidental expenses, in addition to \$65 per examiner hour spent on the examination.

(d) The Department may discount or surcharge all examination and supervision fees herein provided to assure that anticipated revenues of the Department will fund the annual appropriation by the General Assembly.

(e) The Department may also require reimbursement for direct expenses, such as transportation costs, meals, lodging, etc. associated with out-of-state examinations or supervisory visits for any regulated entity, including money services businesses.

(2) Banking applications:

(a) Applicants for new branch offices or relocations of financial institutions shall pay an investigation fee of \$1,250 for each application. Simple re-designations of existing bank locations require only prior notification in writing. Branch Offices established under the notice procedure shall pay a fee of \$500.

(b) Applicants for approval of new bank, trust company, state savings or mutual savings bank, or savings and loan ~~associations, or building and loan~~ charters shall pay an investigation fee of \$20,000 for each application. Bank charter applications qualifying for expedited processing will be assessed an investigation fee of \$10,000. Applicants for approval of a new credit card bank or a special purpose bank shall pay an investigation fee of \$25,000. Prior to commencing business, successful applicants shall pay a supervisory and examination fee covering the preopening organizational supervision and initial operating supervision of the new institution in the amount of \$5,000.

(c) Applicants for approval for a company to become a bank holding company, other than for a de novo bank, may receive regular or expedited processing. Regular processing is \$3,500; expedited processing is \$2,500. Formation of a holding company simultaneously with formation of a de novo bank requires a regular processing fee of \$3,500, which, if applicable, is reduced by the fee for a new state charter.

(d) Applicants for a bank holding company to acquire five (5) percent or more but less than twenty-five (25) percent of the outstanding voting stock of a financial institution, or for review of a change of control shall pay an investigation fee of \$3,500 for each such application, provided, however, the Commissioner may waive or reduce such investigation fee in the case of a merger under emergency conditions as determined by the Department or in the case of interstate transactions where a comparable fee has already been paid for an earlier, related transaction among the same entities.

(e) Applicants for a bank holding company to acquire twenty-five (25) percent or more of the outstanding voting stock of a financial institution, shall pay an investigation fee of \$6,000. Expedited processing for these acquisitions is \$4,500. The fee for an intrastate and a covered interstate merger of banks or bank holding companies is \$4,500, reduced by a Department fee for a simultaneous acquisition if it has been paid. The Commissioner, however, may waive or reduce such investigation fee in the case of a merger under emergency conditions as determined by the Department or, in the case of interstate transactions where a comparable fee has already been paid for an earlier, related transaction among the same entities.

(f) Applicants for license to operate an international agency shall pay an investigation fee of \$5,000. In the event the application is denied, \$2,000 representing the applicant's initial license fee shall be refunded. International bank agencies and domestic international banking facilities shall pay an annual license or registration fee of \$2,000, on the first day of April of each year. Renewal licenses shall be issued for a twelve month period.

(g) Depository financial institutions, except credit card banks, bankers banks, and central credit unions shall pay an annual supervision fee as part of the examination fee prescribed in Rule 80-5-1-.03.

(h) All other financial institutions supervised by the Department who are not already covered by this chapter, except international agencies, shall pay an annual supervision fee of \$500, due on or before January 31 of each year.

(i) The investigation fee for conversion to a state bank is \$20,000.

(j) If a bank satisfies the banking factors set out in the Department's Statement of Policies, the fee to exercise a single trust power is \$250 and the processing is expedited to 7 days. A completed letter form application to exercise limited trust powers will be reviewed in 15 days; the fee is \$750. A bank that desires to exercise full trust powers files a regular application including a copy of the FDIC application. A complete application will be reviewed in 30 days; the fee is \$1,250. A new trust company, which must be affiliated with a Georgia bank, requires an investigation fee of \$20,000.

(k) Regular applications to establish or acquire a subsidiary of a bank shall require a fee of \$500. Banks qualified to file expedited applications according to the criteria in DBF Rule 80-1-1-.10 are not subject to a fee.

(3) General rules for fees; holding companies with subsidiaries in Georgia.

(a) Each bank holding company supervised by the Department shall pay on or before September 15 an annual supervision fee of \$1,000. Each Georgia bank holding company or a holding company that owns a Georgia bank shall pay each year on or before the date the holding company supervision fee is due an additional \$500 for each Georgia non-bank subsidiary corporation of the bank holding company, excluding subsidiaries assessed pursuant to Rule 80-5-1-.03(1)(a) and subsidiaries paying an annual license or registration fee pursuant to Rule 80-5-1-.02(4), as of June 30 preceding the supervision fee due date.

(b) Applications covering more than one transaction (branch, acquisition, merger, etc.), which require the Department to separately analyze each application shall pay the applicable fee for each transaction.

(c) The annual assessment rates included in subparagraph (1)(a) above will normally be used in connection with any annual assessment of depository financial institutions having banking offices in more than one state including Georgia. The Commissioner, however, will have the discretion to deviate from the rates included in the assessment schedule and other rates and charges including application fees in order to facilitate or implement interstate efforts to regulate and supervise multi-state banks or for parity reasons.

Authority O.C.G.A. Secs. 7-1-41, 7-1-61.

80-5-1-.07 License Renewal Periods and Requirements for Mortgage Brokers, Mortgage Lenders, and Mortgage Originators.

(a) For purposes of this Article the Nationwide ~~Mortgage-Multistate~~ Licensing System and Registry (NMLSR) is defined as a uniform multi-state administration of an automated licensing system for mortgage brokers and mortgage lenders. The department's participation in the NMLSR is authorized by O.C.G.A. § 7-1-1003.5.

(b) All applications for new licenses or registrations must be made through NMLSR. Fees for new applications include an initial Department investigation fee and the appropriate application fee for the application type. Applications for new licenses and registrations which are approved between November 1 and December 31 in any year will not be required to file a renewal application for the next calendar year. All fees are non-refundable.

(c) All licenses and registrations issued pursuant to the Act shall expire on December 31 of each year, and an application for renewal shall be made annually between November 1 and December 31 each year. Subsequent renewal applications and/or license fees must be received on or before December 1 of each year or the applicant will be assessed a late fee as set forth in these rules by license or registration type. A renewal application is not deemed received until all required information, including documentation of any required continuing education coursework, and corresponding fees, has been provided by the licensee. A proper renewal application not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Unless a proper application has been received any license or registration which is not renewed on or before December 31 will require the applicant to file a reinstatement application in order to conduct mortgage business in the State after that date.

Authority O.C.G.A. § 7-1-1003.5.

CHAPTER 80-5-2

TEMPORARY CHANGES IN OPERATING HOURS; CLOSINGS

80-5-2-.02 Temporary Closings.

(1) Whenever, in the discretion of a financial institution's Board of Directors or Chief Executive Officer, the safety of the customers, employees, or assets of a financial institution would be in jeopardy due to civil disorder, fire, acts of God, disruption or failure of utility, transportation, communication or information systems, or whenever a financial institution is rendered unable to conduct business due to like circumstances, the financial institution shall not be obligated to open for business.

(2) The financial institution shall make a continuing diligent effort to contact the Department or the Commissioner with regard to the emergency and for further direction as to a temporary closing.

(3) If unable to reach the Department, the Chief Executive Officer or a majority of the Board of Directors may, by implied order of the Commissioner, close all or part of the institution for such period as is necessary to alleviate the emergency. It is not expected that this period should exceed 24 hours. Upon being contacted by a financial institution, the Department shall either concur in the temporary closing or order the institution to reopen in normal or modified form as appropriate under the circumstances.

(4) The Commissioner or the Governor may declare that a financial state of emergency exists and may determine the necessity for and such declaration shall authorize the closing of one or more financial institutions in this State or for limited areas of the State in the impacted area. Whenever such closings are declared, the declaration will be disseminated through the various news media of the State or by specific direction to affected financial institutions. Such declaration shall be effective until modified by executive order of the Governor or, if the emergency was declared by the Commissioner, until the Commissioner or the Governor declares the emergency has ceased and affected institutions may reopen.

(5) Any financial institution may delay opening until as late as noon on any business day when conditions described in paragraph (1) of this rule have been met and an emergency declaration by the Governor or the Commissioner is expected. If after such delay the management of the institution has not been notified either directly or through the news media that an emergency closing has been declared, the financial institution shall either open for business or invoke the provisions of subsection-paragraph (1) of this section-rule if appropriate.

Authority Ga. L. 1974, p. 733; 1978, p. 1714.

CHAPTER 80-5-3

REGULATIONS REGARDING THE SALE OF ANNUITIES BY FINANCIAL INSTITUTIONS

80-5-3-.01 Sale of Annuities by Financial Institutions; Definitions.

(1) Fixed and variable annuities may be sold by financial institutions in Georgia, subject to regulations of the Department of Banking and Finance, regulations of the Department of Insurance and other applicable law.

(2) Financial institutions may sell or market fixed and variable annuities through state licensed insurance/annuity agents. The agents may be either employees of the financial institution or independent agents who have contracted with the financial institution to sell annuities. Prior approval of the Department of Banking and Finance is not required for a financial institution to sell annuities.

(3) As used in this chapter, the term:

(a) "Agency" means a person, including corporations, subsidiary corporations, partnerships, non-natural persons, etc., associated with or in the form of a financial institution who represents one or more insurers and is engaged in the business of soliciting or procuring or accepting applications for annuity sales;

(b) "Agent" means an individual appointed or employed by an insurer who solicits or procures applications for insurance; who in any way, directly or indirectly, makes or causes to be made any insurance contract for or on account of an insurer; or who as a representative of an insurer receives money for transmission to the insurer for an insurance contract, anything in the application or contract to the contrary withstanding, and who has on file with the Commissioner of Insurance a certificate of authority from each insurer with whom the agent places insurance;

(c) An "annuity" is a contract of insurance underwritten by an insurance company that pays an income benefit (monthly, quarterly, semiannually, or annually) for: 1) the life of a person (annuitant), 2) the lives of two or more persons, or 3) a specified period of time. Payments are made for a stated period of time or for the life or lives of the person or persons specified in the contract. The term does not cover the proceeds of life insurance no matter how payable;

(d) "Financial institution" means a state or national bank, ~~building and loan or~~ savings and loan association, bank holding company, or a subsidiary or affiliate of any of the above;

(e) A "fixed annuity" means one party agrees to pay to the annuitant a stipulated amount (monthly, quarterly, semiannually, or annually, as desired) throughout the annuitant's lifetime whereby the dollar amount will not fluctuate regardless of adverse changes in the insurance company's mortality experience, investment return, and expenses;

(f) "Insurance/annuity agent" means an individual appointed or employed by a financial institution who solicits or procures applications for annuities; who in any way, directly or indirectly, makes or causes to be made any annuity contract for or on account of an insurer; and who has on file with the Commissioner of Insurance a certificate of authority from each insurer with whom the agent places annuities;

(g) A "variable annuity" means a contract that pays an annuitant income payments of which the amounts vary in accordance with the market value of the securities in the separate account of the insurer on the respective valuation days.

CHAPTER 80-5-4

REGULATIONS REGARDING THE SALE OF INSURANCE BY FINANCIAL INSTITUTIONS

80-5-4-.01 Sale of Insurance by Financial Institutions; Definitions.

80-5-4-.01 Sale of Insurance by Financial Institutions; Definitions.

(1) Insurance may be sold by financial institutions in Georgia, subject to regulations of the Department of Banking and Finance, regulations of the Office of the Commissioner of Insurance and other applicable state law including but not limited to O.C.G.A. § 33-3-23. Sale of annuities by financial institutions is covered in Regulation Chapter 80-5-3. These regulations do not negate or affect the following: exceptions set out in O.C.G.A. §33-3-23 such as sale and underwriting of credit insurance (§ 33-3-23(b)); sale of products regulated by O.C.G.A. § 33-23-12(b)(3); and insurance sold pursuant to Insurance Regulation §120-2-11, all of which are otherwise regulated by the Office of the Commissioner of Insurance.

(2) Financial institutions may sell or market insurance through state licensed insurance agents. The agents may be either employees of the financial institution or independent agents who have contracted with the financial institution to sell insurance. Prior approval of the Department of Banking and Finance is not required for a financial institution to sell insurance, but policies and rules of the Department of Banking and Finance should be consulted.

(3) As used in this chapter, the term:

(a) "Agency" means a person, including corporations, subsidiary corporations, partnerships, non-natural persons, etc., associated with or in the form of a financial institution who represents one or more insurers and is engaged in the business of soliciting or procuring or accepting applications for insurance sales or countersigning, issuing, or delivering contracts of insurance for one or more insurers;

(b) "Agent" means an individual appointed or employed by an insurer who solicits or procures applications for insurance; who in any way, directly or indirectly, makes or causes to be made any insurance contract for or on account of an insurer; or who as a representative of an insurer receives money for transmission to the insurer for an insurance contract, anything in the application or contract to the contrary notwithstanding, and who has on file with the Commissioner of Insurance a certificate of authority from each insurer with whom the agent places insurance;

(c) "Financial institution" means a domestic state bank, national bank, ~~building and loan or~~ savings and loan association or other federally insured depository institution which is authorized to accept deposits in the state of Georgia; a bank holding company; or a subsidiary or affiliate of any of the above;

(d) "Insurance" means a contract which is an integral part of a plan for distributing individual losses whereby one undertakes to indemnify another or to pay a specified amount or benefits upon determinable

contingencies. The term does not include credit insurance products referenced in O.C.G.A. § 33-23-12(b).

Authority O.C.G.A. § 7-1-61; O.C.G.A. § 7-1-261(11).

CHAPTER 80-6-1

HOLDING COMPANIES

80-6-1-.01 Holding Companies, Generally.

80-6-1-.10 Proxies, Offering Circulars, Disclosure Statements.

80-6-1-.16 Qualifying Criteria for Expedited Processing: Establishment of a De Novo Wholly Owned Bank Subsidiary by a Holding Company Lawfully Operating in Georgia.

80-6-1-.01 Holding Companies, Generally.

(1) Georgia's holding company statutes (Code Sections 7-1-605 through 7-1-612) govern all holding companies which have or wish to acquire, by purchase or formation, banks ~~with banking locations in Georgia~~ chartered by the Department. Once a holding company acquires a Georgia bank ~~or a bank with Georgia banking locations~~, it shall be registered annually with the Department. Subsequent acquisitions by that holding company may require approval, a letter form notification, or after the fact notification, depending upon the relationship of the acquisition to Georgia banks ~~or banking locations~~. The Department requires the submission of certain reports from Georgia bank holding companies and from holding companies that own Georgia banks.

(2) Interstate acquisitions by holding companies are dealt with in Part 19 of Article 2 of Title 7; related mergers of the banks in Part 20 of Article 2 of Title 7. Definitions in those Parts should be applied to interstate transactions.

(3) Expedited processing is available to holding companies which qualify under the criteria in Department of Banking and Finance Rule 80-6-1-.13 or 80-6-1-.16, depending on the transaction. A letter form application with a copy of the federal application may be used and public notice may be coordinated so long as the Department is referenced in the notice as a regulator to whom comments should be submitted. A holding company lawfully owning a bank ~~in Georgia, or lawfully owning a branch of a bank in Georgia which was formed by the acquisition and subsequent merger of a Georgia bank~~ chartered by the Department, that meets the criteria in Rule 80-6-1-.16 may qualify for expedited processing for formation of a de novo bank, provided the de novo bank is to be wholly owned by the holding company.

(4) A bank holding company ~~with its principal place of business in Georgia which acquires any bank, and a bank holding company~~ which acquires a bank ~~in Georgia~~ chartered by the Department must apply and seek approval from the Department pursuant to Code Section 7-1-622. Approval to become a bank holding company of a Georgia bank as defined in Code Section 7-1-605 is similarly required. A bank

holding company lawfully owning a bank in Georgia, or lawfully owning a branch of a bank in Georgia which was formed by the acquisition and subsequent merger of a Georgia bank, may form a de novo bank with Department approval pursuant to Code Section 7-1-608(b)(3).

~~(5) A bank holding company with only bank branches in Georgia which does not have its principal place of business here need only notify the Department at least thirty (30) days ahead of its purchase of a bank with no Georgia offices.~~

(6) An Applications Manual and a Statement of Policies are available from the Department. Details of and policies underlying all required applications, notifications and registrations are contained in these manuals.

(7) Fees for all transactions are provided in Department and Banking and Finance Rule Chapter 80-5-1.

(8) A Georgia bank holding company for the purposes of this Chapter shall be defined as in Code Section 7-1-621.

Authority O.C.G.A. § 7-1-61; O.C.G.A. § 7-1-607.

80-6-1-10 Proxies, Offering Circulars, Disclosure Statements.

(1) It shall be a basis for denial of an application for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or to engage in any fraudulent, deceptive or manipulative acts or practices in connection with any offer to purchase or exchange shares of stock in a bank or a holding company which is the subject of an application hereunder.

(2) No Georgia bank holding company or holding company owning a Georgia bank shall offer to purchase or exchange any stock of any banking subsidiary, either directly or indirectly, unless such offer is accompanied by an offering statement prepared in accordance with standards prescribed for securities required to be registered under The Georgia Securities Act of [19732008](#), as amended. Purchases or exchanges of stocks which are subject to the registration requirements of The Securities Act of 1933, as amended (federal), or The Georgia Securities Act of [19732008](#), as amended, or non-registered securities being acquired by a holding company whose securities are subject to registration under such acts, shall comply with the requirements under those acts.

Authority Ga. L. 1976, pp. 168, 175.

80-6-1-16 Qualifying Criteria for Expedited Processing: Establishment of a De Novo Wholly Owned Bank Subsidiary By a Holding Company Lawfully Operating in Georgia.

(1) Only a holding company which has lawfully purchased or acquired a bank in Georgia may qualify under this Rule to form a de novo bank, pursuant to provisions of Code Section 7-1-608(b)(3). [A holding](#)

~~company not already doing a banking business in Georgia may not enter Georgia by forming a new bank here.~~ The holding company must wholly own the proposed bank to qualify for expedited processing.

(2) An eligible holding company must have:

(a) An assigned composite rating of 2 or better at its most recent state or federal examination; and

(b) At least seventy-five (75) percent of its consolidated depository institution assets comprised of eligible depository institutions.

(3) An eligible depository institution, for the purposes of this Rule, shall be one that:

(a) Received a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (UFIRS) as a result of its most recent federal or state examination;

(b) Received a satisfactory or better Community Reinvestment Act (CRA) rating from its primary federal regulator at its most recent examination, if the depository institution is subject to such examination;

(c) Received a compliance rating of 1 or 2 from its primary federal regulator at its most recent examination;

(d) Is well-capitalized as defined in the appropriate capital regulation and guidance of the institution's primary federal regulator; and

(e) Is not subject to a cease and desist order, consent order, prompt corrective action directive, written agreement, memorandum of understanding, or other administrative agreement with its primary federal regulator or chartering authority.

(4) An application may be removed from expedited processing for reasons including the following:

(a) Safety and soundness concerns of the Department dictate a more comprehensive review;

(b) Any material adverse comment is received by the Department;

(c) Other supervisory concerns, legal issues, or policy issues come to the attention of the Department;

(d) If applicable, any acquisition of fixed assets would cause the institution to exceed the state fixed asset limitation; or

(e) Any other good cause exists for denial or removal.

Authority O.C.G.A. § 7-1-61, §7-1-606, § 7-1-607, and § 7-1-608.

CHAPTER 80-8-1

AGENCY ORGANIZATION AND PROCEDURES

80-8-1-.01 Organization.

(1) The Department is organized pursuant to the provisions of O.C.G.A. § 7-1-30 and is charged with the responsibility of supervising the activities of depository financial institutions and certain other financial entities operating pursuant to the provisions of Title 7.

(2) The administration of the Department is under the direction of the Commissioner of Banking and Finance. The Commissioner is assisted by a Senior Deputy and Divisional Deputies in the areas of Administration, Legal ~~and Consumer~~ Affairs, Non-Depository Financial Institutions, and Financial Institution Supervision. The Financial Institutions Supervision Division administers laws, regulations and supervisory matters relating to credit unions, banks, international financial institutions, trust companies, holding companies and state savings and loan associations; and processes applications for such entities. The state is geographically divided into districts or divisions, each of which is administered by a District Director. Legal ~~and Consumer~~ Affairs is responsible for legal matters ~~in consultation with the Attorney General's office and for responses to complaints and questions from consumers regarding the entities regulated~~. Non-Depository Financial Institutions is responsible for regulation and supervision of mortgage lenders and brokers under the Georgia Residential Mortgage Act; and the regulation and supervision of money service businesses, including check cashers, payment instrument sellers, and money transmitters. Administration is responsible for personnel and all budgetary matters.

(3) The Department is funded entirely from the examination, supervision, licensing and other fees paid by supervised financial institutions and other entities under its jurisdiction, and operates under the budgetary system of the state of Georgia.

Authority Ga. L. 1964, p. 338; 1974, p. 733.

CHAPTER 80-9-1

CURRENCY TRANSACTION REPORTS AND SUSPICIOUS ACTIVITIES: BANKS

80-9-1-.02 Suspicious Activities: State Financial Institutions.

(1) A state chartered financial institution filing a suspicious activity report (SAR) with a federal authority must send a copy of such report to the Department ~~at the same time promptly after filing~~ the SAR ~~is filed~~ if:

(a) The SAR involves a director, officer, employee, or principal shareholder of the state chartered financial institution, or a known immediate family member, related interest, or an affiliate of ~~such a director, executive officer, or principal shareholder of the state chartered financial institution persons~~;

(b) The SAR indicates that ~~or any other~~ a financial institution is a suspect or otherwise indicates the possibility that such financial institution violated the law;

(bc) 1. For banks or credit unions with assets less than one billion dollars, the SAR involves either a loss or a potential loss of one hundred thousand dollars (\$100,000) or more;

2. For banks or credit unions with assets of one billion dollars or more, the SAR involves either a loss or a potential loss of two hundred fifty thousand dollars (\$250,000) or more; or

3. For all other financial institutions, ~~T~~the SAR involves a loss or a potential loss of one hundred thousand dollars (\$100,000) or more; ~~or~~

(ed) The SAR involves a money service businesses entity that is a customer of the bank; or

(e) The SAR involves an affiliate or subsidiary of the financial institution.

(2) A financial institution can make a written request to the Department for an increase in the amounts set forth in Paragraph (1)(c). Such request shall set forth in detail the rationale for an increase in the reporting threshold for the particular institution. It shall be in the Commissioner's sole discretion to approve, conditionally or otherwise, or deny the request for an increase in the reporting amounts set forth in Paragraph (1)(c).

(3) Along with any SAR forwarded to the Department, a financial institution shall also notify the Department when law enforcement or the financial institution's insurers, including, but not limited to surety companies, have been notified of the underlying activity.

(24) Financial institutions must comply with federal requirements for detecting and reporting any suspicious activities.

Authority O.C.G.A. § 7-1-61; O.C.G.A. § 7-1-704.

CHAPTER 80-10-1

RECORDS RETENTION

80-10-1-.04 Reimbursement for Cost of Production of Records.

80-10-1-.04 Reimbursement for Cost of Production of Records.

(1) A financial institution shall be reimbursed for costs which are reasonably necessary and which have been directly incurred in searching for, reproducing or transporting books, papers, records or other data of a customer required or requested to be produced pursuant to a lawful subpoena, summons, warrant or court order where the financial institution is not a party to the action or in cases of garnishment or attachment of funds held by the financial institution. Such costs shall be reasonably determined according to time spent, materials provided, and personnel level required, and any pertinent state law.

(2) Allowable reimbursements for costs incurred on the request of a state government or state law enforcement agency, other than the Department of Banking and Finance, are as follows:

(a) Search and processing costs for time spent in locating, retrieving, reproducing and preparing records shall be reimbursed at actual cost but in no event in excess of \$15 per hour per person.

(b) Reproduction costs incurred in making copies of documents shall be reimbursed at 25 cents per page. Photographs, films and other material shall be reimbursed at actual costs.

(c) Transportation costs which are necessary to transport personnel to locate and retrieve material, or transportation costs necessary to convey the material to the place of examination shall be reimbursed at actual cost.

(3) Conditions for Payment:

(a) Actual, reasonable cost shall be reimbursed.

(b) Costs are reimbursable only if they are directly incurred as a consequence of searching for, reproducing or transporting customer's financial records.

(4) Documentation---The financial institution shall provide to the person requesting such records an itemized invoice indicating in specific detail the searching and processing, reproduction, and transportation costs.

(5) Advances and Payment of Costs:

(a) Within five business days of service, the financial institution may mail or deliver to the party for whom the documents are to be produced a reasonable written estimate of the costs that will be incurred in making the production; and, after so giving such an estimate, the amount of such estimate shall be paid as an advance to the financial institution before it begins the production.

(b) Upon making the production or upon being released from the obligation to do so, the financial institution will submit the invoice required by (4) above and refund any excess received as an advance. The party for whom the documents are to be produced shall, upon the submission of the invoice, pay to the financial institution any amount not covered by an advance.

(c) The amount of any advance and the amount invoiced shall be subject to review by a court of competent jurisdiction after giving due notice and hearing to the financial institution.

(6) The Department of Banking and Finance may waive or modify the provisions of this Regulation 80-10-1-.04 whenever in its opinion the financial burden on any public agency or official prohibits proper access to records necessary to any criminal investigation or prosecution in this State.

(7) Certain federal laws and regulations may apply to production of documents to a federal government agency.

Authority Ga. L. 1974, p. 73.

CHAPTER 80-6-1

DISCLOSURE, ADVERTISING AND OTHER REQUIREMENTS

80-11-1-.02 Advertising Requirements.

80-11-1-.02 Advertising Requirements.

Any advertisement of a mortgage loan that is subject to regulation under O.C.G.A. Title 7, Chapter 1, Article 13 and that is made, published, disseminated or circulated in this state shall comply with the requirements set forth below.

(a) Advertisements for mortgage loans shall not be false, misleading, or deceptive.

(b) Advertisements for mortgage loans shall not indicate in any manner that the interest rates or charges for loans are in any way recommended, approved, set or established by the state or by any law of the state.

(c) All solicitations or advertisements, including business cards and websites, for mortgage loans disseminated in this state by persons required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 shall contain the name, license number, valid unique Nationwide [Mortgage Multistate](#) Licensing System and Registry (NMLSR) identifier, and an office address of the licensee or registrant advertising the mortgage loan, which name, address, and license number shall conform with the name, license number, valid unique NMLSR identifier and office address on record with the Department of Banking and Finance.

(d) All advertisements disseminated in this state by persons required to be licensed under O.C.G.A. Title 7, Chapter 1, Article 13 in any media, whether print or electronic, shall contain the words "Georgia Residential Mortgage Licensee" or, if an entity is licensed in more than one state, the licensee's advertisement may list Georgia as a state in which the licensee is licensed.

(e) All advertisements for mortgage loans shall comply with all applicable federal and state laws.

(f) For purposes of this Rule, "advertisement" means material used or intended to be used to induce the public to apply for a mortgage loan. Such term shall include any printed or published material, audio or visual material, website, or descriptive literature concerning a mortgage loan subject to regulation under O.C.G.A. Title 7, Chapter 1, Article 13 whether disseminated by direct mail, newspaper, magazine, radio or television broadcast, electronic, billboard or similar display. The term advertisement shall not include promotional materials containing fifteen words or fewer relating to the mortgage business of the entity which material does not contain references to a specific rate or product, such as balloons, hats, pencils or pens, and calendars.

(g) Every mortgage broker or mortgage lender required to be licensed or registered shall maintain a record of samples of its advertisements (including commercial scripts of all radio and television broadcasts) for examination by the Department of Banking and Finance.

(h) An advertisement shall not include an individual's loan number, loan amount, or other publicly available information unless it is clearly and conspicuously stated in bold-faced type at the beginning of the advertisement that the person disseminating it is not authorized by, acting on behalf of, or otherwise

affiliated with the individual's lender, which shall be identified by name. Such an advertisement shall also state that the loan information contained therein was not provided by the recipient's lender.

Authority Ga. L. 1974, p. 733; Ga. L. 1993, p. 543; O.C.G.A. § 7-1-61; § 7-1-1004.3; § 7-1-1012; § 7-1-1016.

CHAPTER 80-11-2

BOOKS AND RECORDS

80-11-2-.03 Mortgage Loan Transaction Journal.

80-11-2-.04 Mortgage Loan Files.

80-11-2-.03 Mortgage Loan Transaction Journal.

(1) Any person who is acting as a mortgage broker and who is required to be licensed under Article 13 of Title 7, whether as a broker or a lender ("licensee"), shall maintain a journal of mortgage loan transactions which shall include, at a minimum, the following information:

(a) Full name of proposed borrower and all co-borrowers, and the last four digits of their social security number(s);

(b) Date customer applied for the mortgage loan;

(c) Name and Nationwide [Mortgage-Multistate](#) Licensing System and Registry (NMLSR) unique identifier of the loan officer responsible for the loan application whose name also appears on the application; and

(d) Disposition of the mortgage loan application and date of disposition. The journal shall indicate the result of the loan transaction. The disposition of the application shall be categorized as one of the following: loan closed, loan denied, application withdrawn, application in process or other (explanation).

(2) A complete mortgage loan transaction journal shall be maintained in the principal place of business. The journal shall be kept current. Records may be kept at a branch but the principal place of business must have a current journal updated no less frequently than every seven (7) days. The failure to initiate an entry to the journal within seven (7) business days from the date of the occurrence of the event required to be recorded in the journal shall be deemed a failure to keep the journal current.

(3) Failure to maintain the mortgage loan journal or to keep the journal current (incidental and isolated clerical errors or omissions shall not be considered a violation) may be grounds for suspension or revocation of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the department.

(4) Loan processors who are required to be licensed shall be required to keep a mortgage loan transaction journal to the extent they receive information that is required by law or rule to be in the journal. Such journal shall at a minimum include for each loan the full name of the borrower(s), the name

and NMLSR unique identifier of the mortgage broker or lender for whom the processing was performed; the name and the NMLSR unique identifier of the mortgage loan originator for whom the processing was performed, and the dates the loan application was received and returned to such lender or broker. If a processor performs other duties of a broker aside from processing the loan, the processor/broker shall be responsible for keeping the same information as a broker, as provided in subsection (1) of this rule.

Authority Ga. L. 1993. p. 543; O.C.G.A. § 7-1-1012.

80-11-2-.04 Mortgage Loan Files.

(1) Any person who is acting as a mortgage broker and who is required to be licensed under O.C.G.A. Title 7, Article 13, whether as a broker or a lender ("licensee"), shall maintain a loan file for each mortgage loan transaction. The files shall be maintained in an alphabetical or numerical sequence in the principal place of business or in each branch office where mortgage loans are originated, provided that the branch office is indicated on the licensee's initial written application for licensure or written amendment thereto.

(2) Each loan file shall contain the following:

(a) Copy of the signed mortgage loan application with the Nationwide [Mortgage-Multistate](#) Licensing System and Registry (NMLSR) unique identifier of the mortgage loan originator if the application form is received by the licensee;

(b) Copy of credit report if the credit report is pulled or ordered by the licensee;

(c) Copy of the appraisal and the order for such appraisal if the appraisal is ordered by the licensee;

(d) Copy of signed closing statement (HUD-1) or documentation of denial or cancellation of loan application;

(e) Copies of the disclosure documents required by Rule 80-11-1-.01;

(f) Copies of all contracts, letters, notes and memos regarding the customer, including but not limited to lock-in agreements and commitment agreements; and

(3) For canceled loans, a licensee shall maintain a copy of any unsigned mortgage loan application if taken.

(4) Failure to maintain files and required documentation (incidental and isolated clerical errors or omissions shall not be considered a violation) may be grounds for suspension of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the Department.

Authority Ga. L. 1993, p. 543.

CHAPTER 80-11-3

ADMINISTRATIVE FINES AND PENALTIES

80-11-3-.01 Administrative Fines.

Rule 80-11-3-.01 Administrative Fines.

- (1) The Department establishes the following fines and penalties for violation of the Georgia Residential Mortgage Act ("GRMA") or its rules. Except as otherwise indicated, these fines and penalties apply to any person who is acting as a mortgage lender or broker and who is required to be licensed or registered under Article 13 of Chapter 1 of Title 7 ("licensee" or "registrant"). The Department, at its sole discretion, may waive or modify a fine based upon the financial resources of the person, gravity of the violation, history of previous violations, and such other facts and circumstances deemed appropriate by the department.
- (2) All fines levied by the Department are due within thirty (30) days from date of assessment and must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, or reapplication for a license or registration, or any other activity requiring Departmental approval.
- (3) Dealing with Unlicensed Persons. Any licensee or registrant or any employee of either who purchases, sells, places for processing or transfers (or performs activities which are the equivalent thereof) a mortgage loan or loan application to or from a person who is required to be but is not duly licensed under the GRMA shall be subject to a fine of one thousand dollars (\$1,000) per transaction and the licensee or registrant shall be subject to suspension or revocation. Licensees are responsible for the actions of their employees.
- (4) Permitting unlicensed persons to engage in mortgage loan originator activities. Any licensee or registrant who employs a person who does not hold a mortgage loan originator's license but engages in licensed mortgage loan originator activities as set forth in O.C.G.A. § 7-1-1000(22) shall be subject to a fine of one thousand dollars (\$1,000) per occurrence and the licensee or registrant shall be subject to suspension or revocation. Licensees are responsible for the actions of their employees.
- (5) Relocation of Office. Any mortgage broker or mortgage lender licensee who relocates their main office or any additional office and does not notify the Department within thirty (30) days of the relocation in accordance with O.C.G.A. § 7-1-1006(e) shall be subject to a fine of five hundred dollars (\$500).
- (6) Unapproved Offices. In addition to the application, fee and approval requirements of O.C.G.A. § 7-1-1006(f), any licensee who operates an unapproved branch office shall be subject to a fine of five hundred dollars (\$500) per unapproved branch office operated and their license will be subject to revocation or suspension.
- (7) Change in Ownership. Any person who acquires ten percent (10%) or more of the capital stock or a ten percent (10%) or more ownership of a mortgage broker or mortgage lender licensee without the prior approval of the Department in violation of O.C.G.A. § 7-1-1008 shall be subject to a fine of one thousand dollars (\$1,000) and their license or registration will be subject to revocation or suspension.
- (8) Doing Business Without a License or in Violation of Administrative Order. Any person who acts as a mortgage broker or mortgage lender prior to receiving a current license or registration required under O.C.G.A. Title 7, Chapter 1, Article 13, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per transaction and

their mortgage lender or broker application will be subject to denial or their license or registration will be subject to revocation or suspension.

(9) Hiring a Felon. Any mortgage broker or mortgage lender licensee or registrant who hires or retains an employee who is a felon as described in O.C.G.A. § 7-1-1004(h), which employee has not complied with the remedies provided for in O.C.G.A. § 7-1-1004(h), may be fined five thousand dollars (\$5,000) per employee found to be in violation of such provision and their license or registration will be subject to revocation or suspension.

(10) Hiring Persons Otherwise Disqualified from Conducting a Mortgage Business. Any mortgage broker or mortgage lender licensee or registrant who employs any person against whom a final cease and desist order has been issued for a violation that occurred within the preceding five (5) years, if such order was based on a violation of O.C.G.A. § 7-1-1013 or based on the conducting of a mortgage business without a required license or exemption, or whose license was revoked within five (5) years of the date such person was hired pursuant to O.C.G.A. § 7-1-1004(o) shall be subject to a fine of five thousand dollars (\$5,000) per such employee and its license or registration will be subject to revocation or suspension.

(11) Books and Records Violations. If the Department, in the course of an examination or investigation, finds that a licensee or registrant has failed to maintain their books and records according to the requirements of O.C.G.A. § 7-1-1009 and Rule Chapter 80-11-2, such licensee or registrant may be subject to a fine of one thousand dollars (\$1,000) for each violation of a books and records requirement listed in Rule Chapter 80-11-2.

(12) Maintenance of Loan Files. Any person who is required to be licensed under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or any lender acting as a broker who fails to maintain a loan file for each mortgage loan transaction as required by Rule 80-11-2-.04 or who fails to have all required documents in such file shall be subject to a fine of one thousand dollars (\$1,000) per file not maintained or not accessible, or per file not containing required documentation.

(13) Payment of \$10.00 fees and filing of fee statement. Pursuant to Rule 80-5-1-.04 and O.C.G.A. § 7-1-1011, any person who is the collecting agent at a closing of a mortgage loan transaction, is liable for payment of the \$10.00 fee to the Department. The remittance of any \$10.00 fees required to be collected after the date on which they are due shall subject the collecting agent to a late payment fee of one hundred dollars (\$100) for each due date missed. If the Department finds that the collecting agent has not, through negligence or otherwise, submitted \$10.00 fees within six months of the due date, the collecting agent will be subject to an additional fine of twenty (20) percent of the total amount of \$10.00 fees required to be collected for the applicable period. Repeated failures to submit \$10.00 fees may be grounds for revocation of license.

(14) Repealed. Reserved.

(15) Failure to Timely Report Certain Events. Any person required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage lender or broker, who fails to report any of the events enumerated in O.C.G.A. § 7-1-1007(d), shall be subject to a fine of one thousand dollars (\$1,000) per act not reported in writing to the Department within 10 days of knowledge of such act.

(16) Prohibited Acts. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or mortgage lender who violates the provisions of O.C.G.A. § 7-1-1013 shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and his or her license shall be subject to suspension or revocation. Misrepresentations also subject the person making them to a fine. Misrepresentations include but are not limited to the following:

- (i) inaccurate or false identification of applicant's employer;
- (ii) significant discrepancy between applicant's stated income and actual income;
- (iii) omission of a loan to applicant, listed on loan application, which was closed through same lender or broker;
- (iv) false or materially overstated information regarding depository accounts;
- (v) false or altered credit report; and
- (vi) any fraudulent or unauthorized document used in the loan process. A fine of one thousand dollars (\$1,000) shall be assessed for any other violation of O.C.G.A. § 7-1-1013. The Department shall upon written request provide evidence of the violation.

(17) Branch Manager Approval. Any person who is required to be licensed or registered as a mortgage broker or mortgage lender shall be subject to a fine of five hundred dollars (\$500) for operation of a branch with an unapproved branch manager and the license will be subject to revocation or suspension. No such fine shall be levied while Department approval is pending if timely application for approval is made pursuant to Rule 80-11-1-.04.

(18) ~~Education and Experience Requirements. Any mortgage broker licensee subject to the experience and education requirements who fails to meet such requirements shall be fined one thousand dollars (\$1,000) for operating a mortgage business without meeting licensing standards, and their license or registration will be subject to revocation or suspension.~~ Repealed. Reserved.

(19) Failure to Fund. O.C.G.A. § 7-1-1013(3) prohibits failure "to disburse funds in accordance with a written commitment or agreement to make a mortgage loan." If the Department finds, either through a consumer complaint or otherwise, that a lender or a broker acting as a lender has failed to disburse funds in accordance with closing documents, which include legally binding executed agreements indicating a promise to pay and a creation of a security interest, a fine of five thousand dollars (\$5,000) per transaction may be imposed and its license or registration may be subject to revocation or suspension.

(20) Advertising. Any person who is required to be licensed or registered as a mortgage broker or mortgage lender who violates the regulations relative to advertising contained in O.C.G.A. § 7-1-1004.3 and § 7-1-1016 or the advertising requirements of department Rule 80-11-1-.02 shall be subject to a fine of five hundred dollars (\$500) for each violation of law or rule.

(21) Failure to Submit to Examination or Investigation. The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department) shall be revocation of the license or registration and a five thousand dollars (\$5,000) fine. Refusal shall be determined according to Department examination policies and procedures, but shall require at least two attempts to schedule an examination or investigation.

(22) Repealed. Reserved.

(23) Background Checks. Any licensee who fails to perform proper background checks on covered employees in accordance with the provisions of O.C.G.A. § 7-1-1004(h), (i), and (k) shall be subject to a fine of one thousand dollars (\$1,000) for each employee on whom the required background check was not conducted.

(24) Change in Officers. Any licensee who fails to notify the Department of a change in principals of the company without the proper approval of the Department in violation of O.C.G.A. § 7-1-1006(e) shall be subject to a fine of five hundred dollars (\$500).

(25) Georgia Fair Lending Act. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or mortgage lender who violates any provision of Chapter 6A of Article 13, the Georgia Fair Lending Act, shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and their license will be subject to revocation or suspension.

(26) Consumer Complaints. Any licensee or registrant who fails to respond to a consumer complaint or fails to respond to the Department within the time periods specified in the Department's correspondence to such person shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence. Repeated failure to properly respond to consumer complaints may result in revocation of license.

(27) Failure to Perform Timely Background Checks. If the ten (10) day requirement for submission of background information to the proper law enforcement authorities is not met, the employer shall be subject to a one thousand dollars (\$1,000) fine.

(28) Failure to File Timely or Accurate Call Reports. Any licensee or registrant who fails to file a timely Call Report as required through the Nationwide Multi-State Licensing System and Registry or fails to file an accurate Call Report shall be subject to a fine of one hundred dollars (\$100) per occurrence. Repeated failure to file timely or accurate Call Reports may subject the license or registration to revocation or suspension.

(29) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensed mortgage lender, mortgage broker, or registrant that fails to disclose that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee or registrant within ten (10) business days of the date of the event necessitating the disclosure, shall be subject to a fine of one thousand dollars (\$1,000). Any licensed mortgage broker, mortgage lender, or registrant that fails to submit a new lawful presence affidavit from a current owner or executive officer within ten (10) business days of the owner or executive officer that executed the previous lawful presence affidavit no longer being in that position with the licensee or registrant, shall be subject to a fine of one thousand dollars (\$1,000) per day until the new affidavit is provided.

(30) Failure to Timely Update Information on the Nationwide Multi-State Licensing System and Registry. Any licensed mortgage broker, mortgage lender, or registrant that fails to update its information on the Nationwide Multi-State Licensing System and Registry ("NMLSR"), including, but not limited to, amendments to any response to disclosure questions on an application or a licensee's or registrant's NMLSR MU-1, within ten (10) business days of the date of the event necessitating the change, shall be subject to a fine of one thousand dollars (\$1,000) per occurrence. In addition, the failure of a control person of a licensed mortgage broker, mortgage lender, or registrant to update the individual's information on the NMLSR, including, but not limited to, amendments to any response to disclosure questions on the control person's NMLSR MU-2, within ten (10) business days of the date of the event necessitating the change, shall subject the licensed mortgage broker, mortgage lender, or registrant to a fine of one thousand dollars (\$1,000) per occurrence.

CHAPTER 80-11-4

LICENSING

- 80-11-4-.01 ~~Initial Experience and Education Requirements; Continuing Education. Repealed and Reserved~~
- 80-11-4-.02 ~~Approved Schools. Repealed and Reserved~~
- 80-11-4-.05 Knowing Purchase, Sale or Transfer of Loan or Loan Application from Unlicensed Entity, Mortgage Loan Originator Sponsorship Excluded.
- 80-11-4-.09 Challenges to Information Entered into the Nationwide ~~Mortgage~~ Multistate Licensing System and Registry.

Rule 80-11-4-.01 ~~Initial Experience and Education Requirements; Continuing Education. Repealed and Reserved~~

- (1) ~~Subject to the exceptions below, any mortgage broker license issued, reinstated or renewed after July 1, 2000 to an applicant, shall be subject to the requirements for experience or education. Such requirements shall apply to natural person applicants, or if to other entities or persons, to the operating manager who administers the operations in this state (collectively, "applicant").~~
- (2) ~~Applicants for a new license or for reinstatement of a previous license shall elect and meet either the experience or the education requirements before a license will be issued or reinstated.~~
- (3) ~~Exception for certain licensees for initial education or experience requirements:
 - (a) ~~Any mortgage broker license issued to an applicant prior to July 1, 2000, which license remains continuously valid without interruption until renewed on July 1, 2001, shall be subject to either one year of verifiable experience or applicant must meet the education requirements in this rule.~~
 - (b) ~~Applicants for renewal eligible for this exception, in the case of a natural person, need only state on the application that the license was issued on or before July 1, 2000 and has remained continuously valid without interruption since July 1, 2000. In the case of other entities or persons, applicant must demonstrate that the current operating manager has completed either one year of experience, verified according to this rule, or the education requirements.~~~~
- (4) ~~Experience Requirements:
 - (a) ~~Applicant must complete two (2) years of verifiable experience working full time for a licensed mortgage broker or lender.~~
 - (b) ~~Experience shall consist of directly soliciting, processing, placing and negotiating mortgage loans for others.~~
 - (c) ~~The following information must be submitted at the time of application or renewal by an applicant who wishes to qualify by using experience:
 - 1. ~~Letter on letterhead from previous or current employer certifying completion of two (2) years work experience directly soliciting, processing, placing, and negotiating mortgage loans for others. Telephone number of employer must be provided;~~~~~~

2. ~~Copy of IRS form W 2 for the tax years covering the experience requirement;~~
3. ~~Completed and signed IRS form 4506 which enables the Department to verify the W 2, and;~~
4. ~~Other documents or information required by the Department necessary to verify completion of the experience requirement. Experience requirement may be verified by the Department directly with the employer and tax authorities.~~

~~(d) If applicant's experience is received from an employer not required to be a Georgia Residential Mortgage Act licensee, such applicant must also complete four (4) hours of education provided by an approved school in Georgia, which education specifically covers the Georgia Residential Mortgage Act and rules and regulations of the Department.~~

~~(5) Initial Education Requirements:~~

~~(a) An applicant for a mortgage broker's license must complete a minimum of forty (40) hours of prescribed courses from a Department or Nationwide Mortgage Licensing System and Registry (NMLSR) approved provider of mortgage training. A mortgage broker that is also making an application for a mortgage loan originator's license may apply the twenty (20) hours of required mortgage loan originator pre licensing education towards its mortgage broker license.~~

~~(b) Course work taken pursuant to this rule shall pertain to basic technical mortgage terms, elements of the mortgage brokering process, federal law, applications and required documentation, and shall include a minimum of four (4) course hours on Georgia law, rules and regulations; fraud detection; and the prevention of fraud in the mortgage industry.~~

~~(c) Applicant must submit proof of completion of the required education courses in the form of a certificate of completion issued by a Department approved provider of mortgage education courses. This requirement may be verified by the Department directly with the provider. The Department will make available a list of such providers.~~

~~(6) Experience requirements must have been completed within the three (3) calendar year period immediately prior to the date of approval of the license. Initial education requirements must have been completed within the one (1) calendar year period prior to the date of approval.~~

~~(7) Continuing Education. Applicants for renewal of a broker's license that are not subject to the mortgage loan originator's license requirements shall meet the continuing education requirements set forth in subparts (a) through (i) of this rule. Mortgage broker/processor licensees who maintain a mortgage loan originator's license must meet the continuing education requirements set forth in Rule 80-11-5-04(1)(b).~~

~~(a) Applicant must complete on an annual basis and by October 31 each year a minimum of eight (8) hours of continuing education dealing with elements of the mortgage brokering process, federal law, federal rules and regulations, Georgia law, Georgia rules and regulations, applications and required documentation, fraud, ethics or other topics pertinent to the operation of a mortgage brokering business in Georgia. At least one (1) hour shall be concentrated on fraud detection and prevention. A mortgage broker that is also a mortgage loan originator may apply the eight (8) hours of annual continuing education required by O.C.G.A. § 7-1-1004(g) to the continuing education requirement contained in this rule.~~

~~(b) Except as provided in this rule, continuing education must be completed with a Department or NMLSR approved provider of mortgage education classes and be timely reported to the NMLSR pursuant to NMLSR requirements.~~

~~(c) — Seminars, courses or classes sponsored and approved by mortgage related state and federal regulatory agencies, a NMLSR approved provider, the National Association of Mortgage Brokers (NAMB), state and federal regulated lenders and their affiliates or professional associations, all of which must be recognized by the Department as proper providers of education requirements ("approved providers"). Requirements may be satisfied at monthly association meetings, conventions, seminars or through electronic means provided the subject meets the requirements of this Rule. For purposes of continuing education, instructors and speakers at seminars, conventions or classes sponsored by approved providers will not be required to seek Department approval as approved providers of mortgage education classes. Education providers shall assign a certificate number to each attendee of a seminar, course or class. In state providers must keep lists of attendees for at least two (2) years.~~

~~(d) — Each licensed broker must maintain a listing of the courses completed or seminars attended, the date attended, the name of the instructor or speaker, the name of the sponsoring association, the course agenda and the credit hours earned for each course or seminar. Credit hours may not be earned or approved in less than one (1) hour increments. Such information may be requested as part of the renewal application.~~

~~(e) — The Department will not be required to verify that each applicant has completed the required Department continuing education hours prior to issuance of a renewal license. However, the Department may at any time and at its discretion select any number of renewal applications to verify that the continuing education requirements have been met. Verification of continuing education hours may be performed as a part of the examination process. Licensees must maintain documentation for five (5) years that verifies the continuing education hours attained. The Department may request proof of attendance or verification from the applicant, sponsor, instructor or speaker.~~

~~(f) — The Department may at its discretion accept continuing education hours completed between November 1 and December 31 of each year as part of the license renewal requirement. However, licensees/applicants that fail to attain at least eight (8) continuing education hours by October 31 of each year will be subject to a one thousand dollars (\$1,000) fine.~~

~~(g) — Upon submitting an application to renew a license, failure to complete eight (8) continuing education hours by October 31 together with failure to complete the hours by December 31 with payment of the one thousand dollars (\$1,000) fine shall result in inability to renew the license, or other administrative action.~~

~~(h) — For purposes of continuing education requirements "applicant" shall mean an individual owner of the licensee, or a person designated and employed by the licensee as the primary supervisor or manager of the licensee's mortgage business. The intent of the rule is that the continuing education for a mortgage broker's license must be obtained by a person who directs the affairs of the mortgage business.~~

~~(i) — Newly licensed brokers who obtain their license between January 1 and October 31 of any year will be required to have eight (8) hours of continuing education credits in order to qualify to renew their license for the next license renewal period. Newly licensed brokers who obtain their license between November 1 and December 31 of any year will be required to complete continuing education credits prior to license renewal. Provisions in subsection (f) and (g) of this rule also apply to such newly licensed brokers.~~

Rule 80-11-4.02 ~~Approved Schools.~~ Repealed and Reserved

~~(1) — A school or provider ("school") that wishes to be approved by the department to offer courses eligible to satisfy the mortgage broker education requirement shall apply to the department for approval. Only approved schools may provide such courses.~~

~~(2) — An approved school must offer credit hours in courses directly related to the mortgage broker process. A list of the required areas of coverage necessary to satisfy the education requirement will be published by the department and may be revised from time to time as the need demands.~~

~~(3) — An approved school must issue a certificate of completion to each person attending, and must have standards for attendance and test taking and a reasonable method to determine attendance. The school must provide to the department a list of all persons successfully completing the required credit hours.~~

~~(4) — All approved schools must have qualified instructors, meeting standards established by O.C.G.A. §7-1-1003.7 and the department, which will be available to the school upon request.~~

~~(5) — An approved school's official must be available to the department to contact in order to verify completion of education.~~

~~(6) — An approved school must allow access to Department personnel in order for the Department to perform a review and assessment of the curriculum, books and records, and instruction offered by the school or provider to licensees and/or applicants. Failure to allow such access will result in removal of the school as an approved educational provider.~~

80-11-4.05 Knowing Purchase, Sale or Transfer of Loan or Loan Application from Unlicensed Entity, Mortgage Loan Originator Sponsorship Excluded.

(1) It is prohibited for any person to knowingly purchase, sell or transfer a mortgage loan or loan application to or from an unlicensed mortgage loan originator, mortgage lender or broker, unless that entity is exempt from licensing. It is expected that all persons who purchase loans use reasonable diligence to determine whether the entities they do business with are licensed. To that end, the department has provided various means to determine whether an entity is licensed.

(a) A list of current licensees is provided by the Department. It is updated nightly with the exception of weekends and holidays.

(b) The Department also provides information pertaining to all denied, revoked and sanctioned licenses. It is updated weekly.

(c) The Department responds to telephone inquiries from 8:00 a.m. to 4:30 p.m. each weekday (except holidays) and provides current information to callers.

(2) Obtaining a copy of an entity's annual license shall not be sufficient evidence of a current license since revocation proceedings occur throughout the year.

(3) Failure by a licensee to exercise reasonable diligence to determine whether an entity is licensed may result in a fine or other administrative action, including, but not limited to, license revocation.

(4) The mere act of sponsoring an employee seeking licensure from the Department as a mortgage loan originator through the Nationwide [Mortgage-Multistate](#) Licensing System and Registry shall not be regarded in and of itself as engaging in the mortgage business with an unlicensed person as long as the applicant is not performing for the sponsoring licensee or registrant those regulated activities set forth in O.C.G.A. § 7-1-1000(22).

Authority O.C.G.A. § 7-1-1012; § 7-1-1002.

80-11-4-.09 Challenges to Information Entered into the Nationwide [Mortgage-Multistate](#) Licensing System and Registry.

A mortgage broker or lender licensee or registrant may challenge information entered by the Department into the Nationwide [Mortgage-Multistate](#) Licensing System and Registry. All challenges must be sent to the Department in writing addressed to the attention of the Deputy Commissioner of Non-Depository Financial Institutions. Once received, the Department shall consider the merits of the challenge raised and provide the licensee or registrant with a written reply that shall be the agency's final decision in response thereto.

Authority O.C.G.A. § 7-1-1004.2.

CHAPTER 80-11-5

MORTGAGE LOAN ORIGINATOR AND OTHER REQUIREMENTS

80-11-5-.01 Mortgage Loan Originator Licensure Requirements.

80-11-5-.04 Renewals.

80-11-5-.05 Administrative Fines.

80-11-5-.06 Administrative Actions; Nationwide [Mortgage-Multistate](#) Licensing System and Registry Information Challenges.

80-11-5-.07 Information on the Nationwide [Mortgage-Multistate](#) Licensing System and Registry.

80-11-5-.01 Mortgage Loan Originator Licensure Requirements.

(1) A mortgage loan originator may not engage in the business of mortgage loan origination for a licensed residential mortgage broker or lender without first obtaining and maintaining a current Georgia mortgage loan originator's license issued through the Nationwide [Mortgage-Multistate](#) Licensing System and Registry ("NMLSR").

(2) An applicant for mortgage loan originator's license must have a sponsor at and during the time his or her application is being considered for approval or renewal by the Department. Failure to have a sponsor at the time application for licensure is made on the NMLSR or while it is pending shall result in the application being administratively withdrawn by the Department. In the event the applicant wishes to submit a new application after the application has been administratively withdrawn, then the applicant shall be required to submit a new application as well as pay all associated fees. For purposes of this Rule Chapter, "sponsorship" means the authorization for a properly licensed mortgage loan originator to conduct business as an employee under and on behalf of a specific mortgage broker or mortgage lender's license or registration. Sponsorship must be initiated and maintained by the licensed or registered mortgage broker or mortgage lender employing a mortgage loan originator.

(3)(a) As a continuing requirement of licensure, a mortgage loan originator must at all times have proper sponsorship on record with the NMLSR by a licensed or registered Georgia mortgage broker or mortgage lender.

(b) Sponsorship must be applied for and accepted by the Department. Once established, sponsorship can be removed by the employing licensee or registrant. It shall be the responsibility of every mortgage loan originator applicant and licensee to ensure that his or her sponsorship is correctly reflected at all times on the NMLSR.

(4) A mortgage loan originator shall have coverage under the surety bond of his or her licensed or registered mortgage broker or mortgage lender employer.

(5) An applicant for a mortgage loan originator's license will not be approved for licensure if he or she has pleaded guilty to, been found guilty of, or entered a first offender or nolo plea for a felony. A mortgage loan originator license applicant will not be approved for licensure or reinstatement of licensure if he or she has been convicted of a felony in an instance in which a restoration of rights subsequently was issued by a state or federal pardoning authority empowered to dispense this relief.

(6) A mortgage loan originator must immediately surrender his or her license to the Department through the NMLSR once he or she leaves the employ of a licensed broker or lender and begins working as a loan officer for an exempt entity identified in O.C.G.A. § 7-1-1001.

(7) An application for a mortgage loan originator license, which is missing material information, shall be held in an incomplete status for a period of five (5) business days after the issuance of written notice by the Department or NMLSR specifying the identified deficiency. If any such deficiency remains outstanding for more than five (5) business days, the license application will be considered abandoned by the applicant and will be administratively withdrawn by the Department. In the event the applicant wishes to submit a new application after it has been administratively withdrawn, then the applicant shall be required to submit a new application as well as pay all associated fees.

Authority O.C.G.A. § 7-1-1001.1; § 7-1-1002; § 7-1-1003.2; § 7-1-1004.

Rule 80-11-5-.04 Renewals

(1) Mortgage loan originator licenses shall expire on December 31st of each calendar year. A mortgage loan originator must meet the following requirements in order to have his or her license renewed:

(a) A mortgage loan originator must continue to meet the minimum standards for license issuance.

(b) Timely submission of a complete renewal application and corresponding fee.

(c) A mortgage loan originator must satisfy the continuing education requirements of O.C.G.A. § 7-1-1004(g). The applicant must obtain on an annual basis eight (8) hours of approved continuing education in mortgage courses from an NMLSR approved provider. Of these eight (8) hours, seven (7) hours must be obtained in course work addressing the subjects identified in O.C.G.A. § 7-1-1004(g)(1), and at least one (1) hour of continuing education must be obtained in coursework addressing the Georgia Residential Mortgage Act, specifically any changes made to the statute and its corresponding regulations.

(d) Courses taken to meet the approved continuing education requirements of the NMLSR for any state shall be accepted as credit towards continuing education requirements in Georgia, with the exception that one (1) hour of the required courses must cover laws and regulations related to Georgia mortgage licensure, not that of another state.

(e) Continuing education credits are only valid in the calendar year in which the courses are taken. Credits earned during November 1 through December 31 will be excluded from consideration for continuing education credit hours earned for the subsequent renewal period. When continuing education hours are obtained by a mortgage loan originator, only credit hours obtained from January 1 to October 31 shall be considered for purposes of meeting the eight (8) hours of continuing education required in the subsequent renewal period.

(f)

1. Upon submitting an application to renew a license, failure to document to the Department's satisfaction proof of completion of eight (8) continuing education hours by October 31 ~~will~~ may subject the licensee to a fine. The failure to ~~obtain and~~ document proof of completion of these hours and to pay any assessed fine by December 31 ~~with payment of the fine~~ shall result in the expiration of the mortgage loan originator's license without notice or hearing.

~~(2)~~ 2. A mortgage loan originator whose license has ~~not~~ been inactive for ~~a period of up to five (5) less than three (3)~~ years shall provide proof of completion of the continuing education requirements for the last year in which the license was held in order to reinstate it. Should reinstatement of an expired license be sought for a license that has ~~not~~ been inactive for five (5) ~~consecutive~~ years or more, such reinstatement application will require that the applicant again meet the testing requirements set forth in O.C.G.A. § 7-1-1004~~(e) and~~ (f). If a person has worked as a registered loan originator at any time during the lapsed license period, the period of time the registered mortgage loan officer was employed in this capacity shall not count toward the calculation of the time period for the continuing education and testing requirements of this paragraph.

3. In the following circumstances the prelicensing education course will expire, which shall require the individual to complete an additional 20 hours of prelicensing education in order to be eligible for a mortgage loan originator license. An individual's prelicensing education shall expire if he/she:

(i) fails to acquire a valid license or work as a registered loan originator within three years from the date of initial completion of any approved prelicensing education course;

or

(ii) has obtained a license or worked as a registered loan originator but subsequently did not maintain an active license or work as a registered loan originator for three years or more.

Rule 80-11-5-.05 Administrative Fines

(1) The Department establishes the following fines and penalties for violation by mortgage loan originators of the Georgia Residential Mortgage Act ("GRMA") or its rules. The Department, in its sole discretion, may waive or modify any fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(2) All fines levied by the Department are due within thirty (30) days from date of assessment and must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, or reapplication for a license or registration, or any other activity requiring Departmental approval.

(3) All fines collected by the Department shall be paid into the state treasury to the credit of the general fund.

(4) The following fines shall be assessed for violations of GRMA and Department rules:

(a) **Dealing with Unlicensed Persons.** A mortgage loan originator that purchases, sells, places for processing or transfers (or performs activities which are the equivalent thereof) a mortgage loan or loan application to or from a person who is required to be but is not duly licensed under GRMA shall be subject to a fine of one thousand dollars (\$1,000) per transaction and his or her license shall be subject to suspension or revocation.

(b) **Unapproved Location.** A mortgage loan originator that operates from a location in Georgia other than a required approved location on record with the Department shall be subject to a fine of five hundred dollars (\$500) per unapproved location operated and his or her license may be subject to revocation or suspension.

(c) **Doing Business Without a License or in Violation of Administrative Order.** Any person who acts as a mortgage loan originator prior to receiving a current license or registration required under GRMA, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per transaction and the mortgage loan originator's application will be subject to denial or his or her license or registration will be subject to revocation or suspension.

(d) **Books and Records Violations.** If the Department, in the course of an examination or investigation, finds that a mortgage loan originator licensee or registrant has failed to maintain his or her books and records according to the requirements of Rule 80-11-5-.02, such licensee or

registrant may be subject to a fine of one thousand dollars (\$1,000) for each violation of a books and records found to occur.

(e) Prohibited Acts. Any person who is required to be licensed under O.C.G.A. Title 7, Article 13 as a mortgage loan originator who violates the provisions of O.C.G.A. § 7-1-1013 shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and his or her license shall be subject to suspension or revocation.

(f) Education Requirements. A mortgage loan originator who fails to meet the requirement that he or she timely obtain the type and number of continuing education hours each year as required ~~shall~~ may be subject to a fine of one hundred dollars (\$100).

(g) Advertising. A mortgage loan originator that is required to be licensed who violates the regulations relative to advertising contained in O.C.G.A. §§7-1-1004.3 and 7-1-1016 or the advertising requirements of the Department shall be subject to a fine of five hundred dollars (\$500) for each violation of law or rule.

(h) Failure to Submit to Examination or Investigation. The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department) shall be revocation of the license or registration and a five thousand dollars (\$5,000) fine. Refusal shall be determined according to Department examination policies and procedures, but shall require at least two attempts to schedule an examination or investigation.

(i) Permitting an unlicensed person to use a licensed mortgage loan originator's license and identity. Any licensed mortgage loan originator who permits an unlicensed person to use that licensee's name, Nationwide [Mortgage-Multistate](#) Licensing System and Registry Number or other identifying information for the purpose of submitting loan documents to lenders shall be subject to a fine of one thousand dollars (\$1,000) per occurrence, and the license of the mortgage loan originator shall be subject to revocation.

(j) Failure to Timely Update Information on the Nationwide [Mortgage-Multistate](#) Licensing System and Registry. Any licensed mortgage loan originator that fails to update his or her information on the Nationwide [Mortgage-Multistate](#) Licensing System Registry ("NMLSR") including, but not limited to, amendments to any responses to disclosure questions on an application or a licensee's NMLSR MU-4, within ten (10) business days of the date of the event necessitating the change, shall be subject to a fine of one thousand dollars (\$1,000) per occurrence.

(k) Failure to Timely Report Certain Events. Any licensed mortgage loan originator that fails to report any of the events enumerated in O.C.G.A. § 7-1-1007(d) within ten (10) days of obtaining knowledge about the underlying events, shall be subject to a fine of one thousand dollars (\$1,000) per occurrence.

80-11-5-.06 Administrative Actions; Nationwide [Mortgage-Multistate](#) Licensing System and Registry Information Challenges.

(1) Final administrative actions taken against mortgage loan originators shall be considered public information and may be disseminated through the Nationwide [Mortgage-Multistate](#) Licensing System and Registry (NMLSR) and by the Department.

(2) A mortgage loan originator may challenge information entered by the Department into the NMLSR. All challenges must be sent to the Department in writing addressed to the attention of the Deputy Commissioner of Non-Depository Financial Institutions. Once received, the Department shall consider the merits of the challenge raised and provide the mortgage loan originator with a written reply that shall be the agency's final decision in response thereto.

Authority O.C.G.A. § 7-1-61; § 7-1-1003.6; § 7-1-1004.2; § 7-1-1012.

80-11-5-.07 Information on the Nationwide [Mortgage-Multistate](#) Licensing System and Registry.

(1) It shall be the sole responsibility of each mortgage loan originator applicant and licensee to keep current at all times his or her information on the Nationwide [Mortgage-Multistate](#) Licensing System and Registry ("NMLSR"), including, but not limited to, his or her employment history, e-mail address, telephone numbers, facsimile number, and residential history. Amendments to any information on file with the NMLSR must be made by the applicant or licensee within ten (10) business days of the date of the event necessitating the change. The Department shall have no responsibility for any communication not received by an applicant or licensee due to his or her failure to maintain current contact information on the Nationwide [Mortgage-Multistate](#) Licensing System and Registry as required.

(2) Amendments to any responses to disclosure questions on a mortgage loan originator applicant or licensee's NMLSR MU-4 must be made within ten (10) business days following the date of the event necessitating the change. Failure by an applicant for a mortgage loan originator's license to timely update the applicant's MU-4 may result in the denial or administrative withdrawal of his or her license application. In the case of a licensed mortgage loan originator, failure to timely update any disclosure information on the NMLSR MU-4 may result in the revocation of his or her license.

Authority O.C.G.A. Secs. 7-1-61, 7-1-1003, 7-1-1004.